

PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

The United States, -- *2. 1874*

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 7, 1874.

PRECEDED BY A

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



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WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1874.

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~~Doc R 402~~

US Doc 1120.5

1874. Dec. 30

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Gen. Hamieton Fish,
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M E S S A G E .

To the Senate and House of Representatives :

Since the convening of Congress, one year ago, the nation has undergone a prostration in business and industries such as has not been witnessed with us for many years. Speculation as to the causes for this prostration might be indulged in without profit, because as many theories would be advanced as there would be independent writers—those who expressed their own views, without borrowing—upon the subject. Without indulging in theories as to the cause of this prostration, therefore, I will call your attention only to the fact, and to some plain questions as to which it would seem there should be no disagreement.

During this prostration two essential elements of prosperity have been most abundant: labor and capital. Both have been largely unemployed. Where security has been undoubted, capital has been attainable at very moderate rates. Where labor has been wanted, it has been found in abundance, at cheap rates compared with what—of necessities and comforts of life—could be purchased with the wages demanded. Two great elements of prosperity, therefore, have not been denied us. A third might be added: our soil and climate are unequalled, within the limits of any contiguous territory under one nationality, for its variety of products to feed and clothe a people, and in the amount of surplus to spare to feed less favored peoples. Therefore, with these facts in view, it seems to me that wise statesmanship, at this session of Congress, would dictate legislation ignoring the past; directing in proper channels these great elements of prosperity to any people. Debt, debt abroad, is the only element that can—with always a sound currency—enter into our affairs to cause any continued depression in the industries and prosperity of our people.

A great conflict for national existence made necessary, for temporary purposes, the raising of large sums of money from whatever source attainable. It made it necessary, in the wisdom of Congress—and I do not doubt their wisdom in the premises, regarding the necessity of the times—to devise a system of national currency, which it proved to be impossible to keep on a par with the recognized currency of the civilized world. This begot a spirit of speculation involving an extravagance and luxury not required for the happiness or prosperity of a people, and involving, both directly and indirectly, foreign indebtedness. The currency being of fluctuating value, and therefore unsafe to hold for legitimate transactions requiring money, became a subject of

speculation within itself. These two causes, however, have involved us in a foreign indebtedness, contracted in good faith by borrower and lender, which should be paid in coin, and according to the bond agreed upon when the debt was contracted—gold or its equivalent. The good faith of the Government cannot be violated toward creditors without national disgrace. But our commerce should be encouraged; American ship-building and carrying capacity increased; foreign markets sought for products of the soil and manufactories, to the end that we may be able to pay these debts. Where a new market can be created for the sale of our products, either of the soil, the mine, or the manufactory, a new means is discovered of utilizing our idle capital and labor to the advantage of the whole people. But, in my judgment, the first step toward accomplishing this object is to secure a currency of fixed, stable value; a currency, good wherever civilization reigns; one which, if it becomes superabundant with one people, will find a market with some other; a currency which has as its basis the labor necessary to produce it, which will give to it its value. Gold and silver are now the recognized medium of exchange the civilized world over; and to this we should return with the least practicable delay. In view of the pledges of the American Congress when our present legal-tender system was adopted, and debt contracted, there should be no delay—certainly no unnecessary delay—in fixing, by legislation, a method by which we will return to specie. To the accomplishment of this end I invite your special attention. I believe firmly that there can be no prosperous and permanent revival of business and industries until a policy is adopted—with legislation to carry it out—looking to a return to a specie basis. It is easy to conceive that the debtor and speculative classes may think it of value to them to make so-called money abundant until they can throw a portion of their burdens upon others. But even these, I believe, would be disappointed in the result if a course should be pursued which will keep in doubt the value of the legal-tender medium of exchange. A revival of productive industry is needed by all classes; by none more than the holders of property, of whatever sort, with debts to liquidate from realization upon its sale. But admitting that these two classes of citizens are to be benefited by expansion, would it be honest to give it? Would not the general loss be too great to justify such relief? Would it not be just as honest and prudent to authorize each debtor to issue his own legal-tenders to the extent of his liabilities? Than to do this would it not be safer—for fear of over-issues by unscrupulous creditors—to say that all debt obligations are obliterated in the United States, and now we commence anew, each possessing all he has at the time free from incumbrance? These propositions are too absurd to be entertained for a moment by thinking or honest people. Yet every delay in preparation for final resumption partakes of this dishonesty, and is only less in degree as the hope is held out that a convenient

season will at last arrive for the good work of redeeming our pledges to commence. It will never come, in my opinion, except by positive action by Congress, or by national disasters which will destroy, for a time at least, the credit of the individual and the state at large. A sound currency might be reached by total bankruptcy and discredit of the integrity of the nation and of individuals. I believe it is in the power of Congress at this session to devise such legislation as will renew confidence, revive all the industries, start us on a career of prosperity to last for many years, and to save the credit of the nation and of the people. Steps toward the return to a specie basis are the great requisites to this devoutly to be sought for end. There are others which I may touch upon hereafter.

A nation dealing in a currency below that of specie in value labors under two great disadvantages: First, having no use for the world's acknowledged medium of exchange, gold and silver, these are driven out of the country because there is no need for their use; second, the medium of exchange in use being of a fluctuating value—for, after all, it is only worth just what it will purchase of gold and silver; metals having an intrinsic value just in proportion to the honest labor it takes to produce them—a larger margin must be allowed for profit by the manufacturer and producer. It is months from the date of production to the date of realization. Interest upon capital must be charged, and risk of fluctuation in the value of that which is to be received in payment added. Hence, high prices, acting as a protection to the foreign producer, who receives nothing in exchange for the products of his skill and labor, except a currency good, at a stable value the world over. It seems to me that nothing is clearer than that the greater part of the burden of existing prostration, for the want of a sound financial system, falls upon the workingman, who must after all produce the wealth, and the salaried man, who superintends and conducts business. The burden falls upon them in two ways, by the deprivation of employment and by the decreased purchasing-power of their salaries. It is the duty of Congress to devise the method of correcting the evils which are acknowledged to exist, and not mine. But I will venture to suggest two or three things which seem to me as absolutely necessary to a return to specie payments, the first great requisite in a return to prosperity. The legal-tender clause to the law authorizing the issue of currency by the National Government should be repealed, to take effect as to all contracts entered into after a day fixed in the repealing act; not to apply, however, to payments of salaries by Government, or for other expenditures now provided by law to be paid in currency in the interval pending between repeal and final resumption. Provision should be made by which the Secretary of the Treasury can obtain gold as it may become necessary from time to time from the date when specie redemption commences. To this might and should be added a revenue

sufficiently in excess of expenses to insure an accumulation of gold in the Treasury to sustain permanent redemption.

I commend this subject to your careful consideration, believing that a favorable solution is attainable, and if reached by this Congress that the present and future generations will ever gratefully remember it as their deliverer from a thralldom of evil and disgrace.

With resumption, free banking may be authorized with safety, giving the same full protection to bill-holders which they have under existing laws. Indeed, I would regard free banking as essential. It would give proper elasticity to the currency. As more currency should be required for the transaction of legitimate business, new banks would be started, and, in turn, banks would wind up their business when it was found that there was a superabundance of currency. The experience and judgment of the people can best decide just how much currency is required for the transaction of the business of the country. It is unsafe to leave the settlement of this question to Congress, the Secretary of the Treasury, or the Executive. Congress should make the regulation under which banks may exist, but should not make banking a monopoly by limiting the amount of redeemable paper currency that shall be authorized. Such importance do I attach to this subject, and so earnestly do I commend it to your attention, that I give it prominence by introducing it at the beginning of this message.

During the past year nothing has occurred to disturb the general friendly and cordial relations of the United States with other powers.

The correspondence submitted herewith between this Government and its diplomatic representatives, as also with the representatives of other countries, shows a satisfactory condition of all questions between the United States and the most of those countries, and with few exceptions, to which reference is hereafter made, the absence of any points of difference to be adjusted.

The notice directed by the resolution of Congress of June 17, 1874, to be given to terminate the convention of July 17, 1858, between the United States and Belgium has been given, and the treaty will accordingly terminate on the 1st day of July, 1875. This convention secured to certain Belgian vessels entering the ports of the United States exceptional privileges which are not accorded to our own vessels. Other features of the convention have proved satisfactory, and have tended to the cultivation of mutually beneficial commercial intercourse and friendly relations between the two countries. I hope that negotiations which have been invited will result in the celebration of another treaty which may tend to the interests of both countries.

Our relations with China continue to be friendly. During the past year the fear of hostilities between China and Japan, growing out of the landing of an armed force upon the island of Formosa by the latter, has occasioned uneasiness. It is earnestly hoped, however, that the difficulties arising from this cause will be adjusted, and that the advance of

civilization in these empires may not be retarded by a state of war. In consequence of the part taken by certain citizens of the United States in this expedition, our representatives in those countries have been instructed to impress upon the governments of China and Japan the firm intention of this country to maintain strict neutrality in the event of hostilities, and to carefully prevent any infraction of law on the part of our citizens.

In connection with this subject I call the attention of Congress to a generally-conceded fact—that the great proportion of the Chinese immigrants who come to our shores do not come voluntarily to make their homes with us and their labor productive of general prosperity, but come under contracts with head-men who own them almost absolutely. In a worse form does this apply to Chinese women. Hardly a perceptible percentage of them perform any honorable labor, but they are brought for shameful purposes, to the disgrace of the communities where settled and to the great demoralization of the youth of those localities. If this evil practice can be legislated against, it will be my pleasure as well as duty to enforce any regulation to secure so desirable an end.

It is hoped that negotiations between the government of Japan and the treaty powers, looking to the further opening of the empire, and to the removal of various restrictions upon trade and travel, may soon produce the results desired, which cannot fail to inure to the benefit of all the parties. Having on previous occasions submitted to the consideration of Congress the propriety of the release of the Japanese government from the further payment of the indemnity under the convention of October 22, 1864, and as no action had been taken thereon, it became my duty to regard the obligations of the convention as in force; and as the other powers interested had received their portion of the indemnity in full, the minister of the United States in Japan has, in behalf of this Government, received the remainder of the amount due to the United States under the convention of Simonseski. I submit the propriety of applying the income of a part if not of the whole of this fund to the education in the Japanese language of a number of young men to be under obligations to serve the Government for a specified time as interpreters at the legation and the consulates in Japan. A limited number of Japanese youths might at the same time be educated in our own vernacular, and mutual benefits would result to both governments. The importance of having our own citizens, competent and familiar with the language of Japan, to act as interpreters and in other capacities connected with the legation and the consulates in that country, cannot readily be overestimated.

The amount awarded to the government of Great Britain by the mixed commission organized under the provisions of the treaty of Washington in settlement of the claims of British subjects arising from acts committed between April 13, 1861, and April 9, 1865, became payable, under the terms of the treaty, within the past year, and was paid upon

the 21st day of September, 1874. In this connection, I renew my recommendation, made at the opening of the last session of Congress, that a special court be created to hear and determine all claims of aliens against the United States arising from acts committed against their persons or property during the insurrection. It appears equitable that opportunity should be offered to citizens of other states to present their claims, as well as to those British subjects whose claims were not admissible under the late commission, to the early decision of some competent tribunal. To this end, I recommend the necessary legislation to organize a court to dispose of all claims of aliens of the nature referred to, in an equitable and satisfactory manner, and to relieve Congress and the Departments from the consideration of these questions.

The legislation necessary to extend to the colony of Newfoundland certain articles of the treaty of Washington of the 8th day of May, 1871, having been had, a protocol to that effect was signed in behalf of the United States and of Great Britain, on the 28th day of May last, and was duly proclaimed on the following day. A copy of the proclamation is submitted herewith.

A copy of the report of the commissioner appointed under the act of March 19, 1872, for surveying and marking the boundary between the United States and the British possessions, from the Lake of the Woods to the summit of the Rocky Mountains, is herewith transmitted. I am happy to announce that the field-work of the commission has been completed, and the entire line, from the northwest corner of the Lake of the Woods to the summit of the Rocky Mountains, has been run and marked upon the surface of the earth. It is believed that the amount remaining unexpended of the appropriation made at the last session of Congress will be sufficient to complete the office-work. I recommend that the authority of Congress be given to the use of the unexpended balance of the appropriation in the completion of the work of the commission in making its report and preparing the necessary maps.

The court known as the Court of Commissioners of Alabama Claims, created by an act of Congress of the last session, has organized and commenced its work, and it is to be hoped that the claims admissible under the provisions of the act may be speedily ascertained and paid.

It has been deemed advisable to exercise the discretion conferred upon the Executive at the last session, by accepting the conditions required by the government of Turkey for the privilege of allowing citizens of the United States to hold real estate in the former country, and by assenting to a certain change in the jurisdiction of courts in the latter. A copy of the proclamation upon these subjects is herewith communicated.

There has been no material change in our relations with the independent states of this hemisphere which were formerly under the dominion of Spain. Marauding on the frontiers, between Mexico and Texas, still frequently takes place despite the vigilance of the civil and military

authorities in that quarter. The difficulty of checking such trespasses along the course of a river of such length as the Rio Grande, and so often fordable, is obvious. It is hoped that the efforts of this Government will be seconded by those of Mexico to the effectual suppression of these acts of wrong.

From a report upon the condition of the business before the American and Mexican Joint Claims Commission, made by the agent on the part of the United States, and dated October 28, 1874, it appears that of the 1,017 claims filed on the part of citizens of the United States, 483 had been finally decided, and 75 were in the hands of the umpire, leaving 462 to be disposed of; and of the 998 claims filed against the United States, 726 had been finally decided; one was before the umpire, and 271 remained to be disposed of. Since the date of such report other claims have been disposed of, reducing somewhat the number still pending; and others have been passed upon by the arbitrators. It has become apparent, in view of these figures, and of the fact that the work devolving on the umpire is particularly laborious, that the commission will be unable to dispose of the entire number of claims pending prior to the 1st day of February, 1875—the date fixed for its expiration. Negotiations are pending looking to the securing of the results of the decisions which have been reached, and to a further extension of the commission for a limited time, which it is confidently hoped will suffice to bring all the business now before it to a final close.

The strife in the Argentine Republic is to be deplored, both on account of the parties thereto and from the probable effects on the interests of those engaged in the trade to that quarter, of whom the United States are among the principal. As yet, so far as I am aware, there has been no violation of our neutrality rights, which, as well as our duties in that respect, it shall be my endeavor to maintain and observe.

It is with regret I announce that no further payment has been received from the government of Venezuela on account of awards in favor of citizens of the United States. Hopes have been entertained that if that republic could escape both foreign and civil war for a few years its great natural resources would enable it to honor its obligations. Though it is now understood to be at peace with other countries, a serious insurrection is reported to be in progress in an important region of that republic. This may be taken advantage of as another reason to delay the payment of the dues of our citizens.

The deplorable strife in Cuba continues without any marked change in the relative advantages of the contending forces. The insurrection continues, but Spain has gained no superiority. Six years of strife give to the insurrection a significance which cannot be denied. Its duration and the tenacity of its adherence, together with the absence of manifested power of suppression on the part of Spain, cannot be controverted, and may make some positive steps on the part of other powers a matter of self-necessity. I had confidently hoped, at this time, to be able to

announce the arrangement of some of the important questions between this Government and that of Spain, but the negotiations have been protracted. The unhappy intestine dissensions of Spain command our profound sympathy, and must be accepted as perhaps a cause of some delay. An early settlement, in part at least, of the questions between the governments is hoped. In the mean time, awaiting the results of immediately pending negotiations, I defer a further and fuller communication on the subject of the relations of this country and Spain.

I have again to call the attention of Congress to the unsatisfactory condition of the existing laws with reference to expatriation and the election of nationality. Formerly, amid conflicting opinions and decisions it was difficult to exactly determine how far the doctrine of perpetual allegiance was applicable to citizens of the United States. Congress by the act of the 27th of July, 1868, asserted the abstract right of expatriation as a fundamental principle of this Government. Notwithstanding such assertion, and the necessity of frequent application of the principle, no legislation has been had defining what acts or formalities shall work expatriation, or when a citizen shall be deemed to have renounced or to have lost his citizenship. The importance of such definition is obvious. The representatives of the United States in foreign countries are continually called upon to lend their aid and the protection of the United States to persons concerning the good faith or the reality of whose citizenship there is at least great question. In some cases the provisions of the treaties furnish some guide; in others, it seems left to the person claiming the benefits of citizenship, while living in a foreign country, contributing in no manner to the performance of the duties of a citizen of the United States, and without intention at any time to return and undertake those duties, to use the claims to citizenship of the United States simply as a shield from the performance of the obligations of a citizen elsewhere.

The status of children born of American parents residing in a foreign country, of American women who have married aliens, of American citizens residing abroad where such question is not regulated by treaty, are all sources of frequent difficulty and discussion. Legislation on these and similar questions, and particularly defining when and under what circumstances expatriation can be accomplished or is to be presumed, is especially needed. In this connection I earnestly call the attention of Congress to the difficulties arising from fraudulent naturalization. The United States wisely, freely, and liberally offers its citizenship to all who may come in good faith to reside within its limits on their complying with certain prescribed reasonable and simple formalities and conditions. Among the highest duties of the Government is that to afford firm, sufficient, and equal protection to all its citizens, whether native-born or naturalized. Care should be taken that a right, carrying with it such support from the Government, should not be fraudulently obtained, and should be be-

stowed only upon full proof of a compliance with the law; and yet frequent instances are brought to the attention of the Government of illegal and fraudulent naturalization, and of the unauthorized use of certificates thus improperly obtained. In some cases the fraudulent character of the naturalization has appeared upon the face of the certificate itself; in others examination discloses that the holder had not complied with the law; and in others certificates have been obtained where the persons holding them not only were not entitled to be naturalized, but had not even been within the United States at the time of the pretended naturalization. Instances of each of these classes of fraud are discovered at our legations, where the certificates of naturalization are presented, either for the purpose of obtaining passports, or in demanding the protection of the legation. When the fraud is apparent on the face of such certificates, they are taken up by the representatives of the Government and forwarded to the Department of State. But even then the record of the court in which the fraudulent naturalization occurred remains, and duplicate certificates are readily obtainable. Upon the presentation of these for the issue of passports, or in demanding protection of the Government, the fraud sometimes escapes notice, and such certificates are not infrequently used in transactions of business to the deception and injury of innocent parties. Without placing any additional obstacles in the way of the obtainment of citizenship by the worthy and well-intentioned foreigner who comes in good faith to cast his lot with ours, I earnestly recommend further legislation to punish fraudulent naturalization and to secure the ready cancellation of the record of every naturalization made in fraud.

Since my last annual message the exchange has been made of the ratification of treaties of extradition with Belgium, Ecuador, Peru, and Salvador; also of a treaty of commerce and navigation with Peru, and one of commerce and consular privileges with Salvador; all of which have been duly proclaimed, as has also a declaration with Russia with reference to trade-marks.

The report of the Secretary of the Treasury, which, by law, is made directly to Congress, and forms no part of this message, will show the receipts and expenditures of the Government for the last fiscal year; the amount received from each source of revenue, and the amount paid out for each of the departments of Government. It will be observed from this report that the amount of receipts over expenditures has been but \$2,344,882.30 for the fiscal year ending June 30, 1874, and that for the current fiscal year the estimated receipts over expenditures will not much exceed nine millions of dollars. In view of the large national debt existing, and the obligation to add one per cent. per annum to the sinking-fund, a sum amounting now to over \$34,000,000 per annum, I submit whether revenues should not be increased or expenditures diminished to reach this amount of surplus. Not to provide for the sinking-fund is a partial failure to comply with the contracts and obli-

gations of the Government. At the last session of Congress a very considerable reduction was made in rates of taxation, and in the number of articles submitted to taxation; the question may well be asked whether or not, in some instances, unwisely. In connection with this subject, too, I venture the opinion that the means of collecting the revenue, especially from imports, have been so embarrassed by legislation as to make it questionable whether or not large amounts are not lost by failure to collect, to the direct loss of the Treasury and to the prejudice of the interests of honest importers and tax-payers.

The Secretary of the Treasury in his report favors legislation looking to an early return to specie payments, thus supporting views previously expressed in this message. He also recommends economy in appropriations; calls attention to the loss of revenue from repealing the tax on tea and coffee, without benefit to the consumer; recommends an increase of ten cents a gallon on whisky, and, further, that no modification be made in the banking and currency bill passed at the last session of Congress, unless modification should become necessary by reason of the adoption of measures for returning to specie payments. In these recommendations I cordially join.

I would suggest to Congress the propriety of re-adjusting the tariff so as to increase the revenue, and, at the same time, decrease the number of articles upon which duties are levied. Those articles which enter into our manufactures, and are not produced at home, it seems to me should be entered free. Those articles of manufacture which we produce a constituent part of, but do not produce the whole, that part which we do not produce should enter free also. I will instance fine wool, dyes, &c. These articles must be imported to form a part of the manufacture of the higher grades of woolen goods. Chemicals used as dyes, compounded in medicines, and used in various ways in manufactures, come under this class. The introduction, free of duty, of such wools as we do not produce would stimulate the manufacture of goods requiring the use of those we do produce, and, therefore, would be a benefit to home production. There are many articles entering into "home manufactures" which we do not produce ourselves, the tariff upon which increases the cost of producing the manufactured article. All corrections in this regard are in the direction of bringing labor and capital in harmony with each other, and of supplying one of the elements of prosperity so much needed.

The report of the Secretary of War, herewith attached, and forming a part of this message, gives all the information concerning the operations, wants, and necessities of the Army, and contains many suggestions and recommendations which I commend to your special attention.

There is no class of Government employés who are harder worked than the Army—officers and men; none who perform their tasks more cheerfully and efficiently, and under circumstances of greater privations and hardships.

Legislation is desirable to render more efficient this branch of the

public service. All the recommendations of the Secretary of War I regard as judicious, and I especially commend to your attention the following: The consolidation of Government arsenals; the restoration of mileage to officers traveling under orders; the exemption of money received from the sale of subsistence stores from being covered into the Treasury; the use of appropriations for the purchase of subsistence stores without waiting for the beginning of the fiscal year for which the appropriation is made; for additional appropriations for the collection of torpedo material; for increased appropriations for the manufacture of arms; for relieving the various States from indebtedness for arms charged to them during the rebellion; for dropping officers from the rolls of the Army without trial for the offense of drawing pay more than once for the same period; for the discouragement of the plan to pay soldiers by checks; and for the establishment of a professorship of rhetoric and English literature at West Point. The reasons for these recommendations are obvious, and are set forth sufficiently in the reports attached. I also recommend that the status of the staff corps of the Army be fixed—where this has not already been done—so that promotions may be made and vacancies filled as they occur in each grade when reduced below the number to be fixed by law. The necessity for such legislation is specially felt now in the Pay Department. The number of officers in that department is below the number adequate to the performance of the duties required of them by law.

The efficiency of the Navy has been largely increased during the last year. Under the impulse of the foreign complications which threatened us at the commencement of the last session of Congress, most of our efficient wooden ships were put in condition for immediate service, and the repairs of our iron-clad fleet were pushed with the utmost vigor. The result is that most of these are now in an effective state, and need only to be manned and put in commission to go at once into service.

Some of the new sloops authorized by Congress are already in commission, and most of the remainder are launched and wait only the completion of their machinery to enable them to take their places as part of our effective force.

Two iron torpedo-ships have been completed during the last year, and four of our large double-turreted iron-clads are now undergoing repairs. When these are finished, everything that is useful of our Navy, as now authorized, will be in condition for service, and with the advance in the science of torpedo warfare, the American Navy, comparatively small as it is, will be found at any time powerful for the purposes of a peaceful nation.

Much has been accomplished during the year in aid of science and to increase the sum of general knowledge and further the interests of commerce and civilization. Extensive and much-needed soundings have been made for hydrographic purposes and to fix the proper routes of ocean telegraphs. Further surveys of the great Isthmus have been

undertaken and completed, and two vessels of the Navy are now employed, in conjunction with those of England, France, Germany, and Russia, in observations connected with the transit of Venus, so useful and interesting to the scientific world.

The estimates for this branch of the public service do not differ materially from those of last year, those for the general support of the service being somewhat less, and those for permanent improvements at the various stations rather larger than the corresponding estimate made a year ago. The regular maintenance and a steady increase in the efficiency of this most important arm in proportion to the growth of our maritime intercourse and interests, is recommended to the attention of Congress.

The use of the Navy in time of peace might be further utilized by a direct authorization of the employment of naval vessels in explorations and surveys of the supposed navigable waters of other nationalities on this continent; specially the tributaries of the two great rivers of South America, the Orinoco and the Amazon. Nothing prevents, under existing laws, such exploration, except that expenditures must be made in such expeditions beyond those usually provided for in the appropriations. The field designated is unquestionably one of interest and one capable of large development of commercial interests advantageous to the peoples reached, and to those who may establish relations with them.

Education of the people entitled to exercise the right of franchise I regard essential to general prosperity everywhere, and especially so in republics, where birth, education, or previous condition does not enter into account in giving suffrage. Next to the public school, the post-office is the great agent of education over our vast territory; the rapidity with which new sections are being settled, thus increasing the carrying of mails in a more rapid ratio than the increase of receipts, is not alarming. The report of the Postmaster-General, herewith attached, shows that there was an increase of revenue in his Department in 1873 over the previous year of \$1,674,411, and an increase of cost of carrying the mails and paying employes of \$3,041,468.91. The report of the Postmaster-General gives interesting statistics of his Department, and compares them with the corresponding statistics of a year ago, showing a growth in every branch of the Department.

A postal convention has been concluded with New South Wales, an exchange of postal cards established with Switzerland, and the negotiations pending for several years past with France have been terminated in a convention with that country, which went into effect last August.

An international postal congress was convened in Berne, Switzerland, in September last, at which the United States was represented by an officer of the Post-Office Department of much experience and of qualification for the position. A convention for the establishment of an international postal union was agreed upon and signed by the delegates of

the countries represented, subject to the approval of the proper authorities of those countries.

I respectfully direct your attention to the report of the Postmaster-General, and to his suggestions in regard to an equitable adjustment of the question of compensation to railroads for carrying the mails.

Your attention will be drawn to the unsettled condition of affairs in some of the Southern States.

On the 14th of September last, the governor of Louisiana called upon me, as provided by the Constitution and laws of the United States, to aid in suppressing domestic violence in that State. This call was made in view of a proclamation issued on that day by D. B. Penn, claiming that he was elected lieutenant-governor in 1872, and calling upon the militia of the State to arm, assemble, and drive from power the usurpers, as he designated the officers of the State government. On the next day I issued my proclamation commanding the insurgents to disperse within five days from the date thereof, and subsequently learned that on that day they had taken forcible possession of the State-house. Steps were taken by me to support the existing and recognized State government; but before the expiration of the five days the insurrectionary movement was practically abandoned, and the officers of the State government, with some minor exceptions, resumed their powers and duties. Considering that the present State administration of Louisiana has been the only government in that State for nearly two years; that it has been tacitly acknowledged and acquiesced in, as such by Congress, and more than once expressly recognized by me, I regarded it as my clear duty, when legally called upon for that purpose, to prevent its overthrow by an armed mob under pretense of fraud and irregularity in the election of 1872. I have heretofore called the attention of Congress to this subject, stating that, on account of the frauds and forgeries committed at said election, and because it appears that the returns thereof were never legally canvassed, it was impossible to tell thereby who were chosen; but, from the best sources of information at my command, I have always believed that the present State officers received a majority of the legal votes actually cast at that election. I repeat what I said in my special message of February 23, 1873, that in the event of no action by Congress I must continue to recognize the government heretofore recognized by me.

I regret to say that, with preparations for the late election, decided indications appeared in some localities in the Southern States of a determination, by acts of violence and intimidation, to deprive citizens of the freedom of the ballot, because of their political opinions. Bands of men, masked and armed, made their appearance; White Leagues and other societies were formed; large quantities of arms and ammunition were imported and distributed to these organizations; military drills, with menacing demonstrations, were held; and, with all these, murders enough were committed to spread terror among those whose

political action was to be suppressed, if possible, by these intolerant and criminal proceedings. In some places colored laborers were compelled to vote according to the wishes of their employers, under threats of discharge if they acted otherwise; and there are too many instances in which, when these threats were disregarded, they were remorselessly executed by those who made them. I understand that the fifteenth amendment to the Constitution was made to prevent this and a like state of things, and the act of May 31, 1870, with amendments, was passed to enforce its provisions, the object of both being to guarantee to all citizens the right to vote and to protect them in the free enjoyment of that right. Enjoined by the Constitution "to take care that the laws be faithfully executed," and convinced by undoubted evidence that violations of said act had been committed, and that a wide-spread and flagrant disregard of it was contemplated, the proper officers were instructed to prosecute the offenders, and troops were stationed at convenient points to aid these officers, if necessary, in the performance of their official duties. Complaints are made of this interference by Federal authority; but if said amendment and act do not provide for such interference under the circumstances as above stated, then they are without meaning, force, or effect, and the whole scheme of colored enfranchisement is worse than mockery, and little better than a crime. Possibly Congress may find it due to truth and justice to ascertain, by means of a committee, whether the alleged wrongs to colored citizens for political purposes are real, or the reports thereof were manufactured for the occasion.

The whole number of troops in the States of Louisiana, Alabama, Georgia, Florida, South Carolina, North Carolina, Kentucky, Tennessee, Arkansas, Mississippi, Maryland, and Virginia, at the time of the election, was four thousand and eighty-two. This embraces the garrisons of all the forts from the Delaware to the Gulf of Mexico.

Another trouble has arisen in Arkansas. Article 13th of the constitution of that State (which was adopted in 1868, and upon the approval of which by Congress the State was restored to representation as one of the States of the Union) provides in effect that, before any amendments proposed to this constitution shall become a part thereof, they shall be passed by two successive assemblies, and then submitted to and ratified by a majority of the electors of the State voting thereon. On the 11th of May, 1874, the governor convened an extra session of the general assembly of the State, which, on the 18th of the same month, passed an act providing for a convention to frame a new constitution. Pursuant to this act, and at an election held on the 30th of June, 1874, the convention was approved, and delegates were chosen thereto, who assembled on the 14th of last July and framed a new constitution, the schedule of which provided for the election of an entire new set of State officers in a manner contrary to the then existing election laws of the State. On the 13th of October, 1874, this constitution, as therein provided, was sub-

mitted to the people for their approval or rejection, and according to the election-returns was approved by a large majority of those qualified to vote thereon, and at the same election persons were chosen to fill all the State, county, and township offices. The governor elected in 1872 for the term of four years turned over his office to the governor chosen under the new constitution; whereupon the lieutenant-governor, also elected in 1872 for a term of four years, claiming to act as governor, and alleging that said proceedings by which the new constitution was made and a new set of officers elected were unconstitutional, illegal, and void, called upon me, as provided in section 4, article 4, of the Constitution, to protect the State against domestic violence. As Congress is now investigating the political affairs of Arkansas, I have declined to interfere.

The whole subject of Executive interference with the affairs of a State is repugnant to public opinion, to the feeling of those who, from their official capacity, must be used in such interposition, and to him or those who must direct. Unless most clearly on the side of law, such interference becomes a crime; with the law to support it, it is condemned without a hearing. I desire, therefore, that all necessity for Executive direction in local affairs may become unnecessary and obsolete. I invite the attention, not of Congress, but of the people of the United States, to the causes and effects of these unhappy questions. Is there not a disposition on one side to magnify wrongs and outrages, and on the other side to belittle them or justify them? If public opinion could be directed to a correct survey of what is, and to rebuking wrong, and aiding the proper authorities in punishing it, a better state of feeling would be inculcated, and the sooner we would have that peace which would leave the States free indeed to regulate their own domestic affairs. I believe on the part of our citizens of the Southern States—the better part of them—there is a disposition to be law-abiding, and to do no violence either to individuals or to the laws existing. But do they do right in ignoring the existence of violence and bloodshed in resistance to constituted authority? I sympathize with their prostrate condition, and would do all in my power to relieve them; acknowledging that in some instances they have had most trying governments to live under, and very oppressive ones in the way of taxation for nominal improvements, not giving benefits equal to the hardships imposed; but, can they proclaim themselves entirely irresponsible for this condition? They cannot. Violence has been rampant in some localities, and has either been justified or denied by those who could have prevented it. The theory is even raised that there is to be no further interference on the part of the General Government to protect citizens within a State where the State authorities fail to give protection. This is a great mistake. While I remain Executive all the laws of Congress, and the provisions of the Constitution, including the recent amendments added thereto, will be enforced with rigor, but with regret that they should have added one

jot or tittle to Executive duties or powers. Let there be fairness in the discussion of Southern questions, the advocates of both, or all political parties, giving honest, truthful reports of occurrences, condemning the wrong and upholding the right, and soon all will be well. Under existing conditions the negro votes the republican ticket because he knows his friends are of that party. Many a good citizen votes the opposite, not because he agrees with the great principles of state which separate parties, but because, generally, he is opposed to negro rule. This is a most delusive cry. Treat the negro as a citizen and a voter—as he is and must remain—and soon parties will be divided, not on the color line, but on principle. Then we shall have no complaint of sectional interference.

The report of the Attorney-General contains valuable recommendations relating to the administration of justice in the courts of the United States, to which I invite your attention.

I respectfully suggest to Congress the propriety of increasing the number of judicial districts in the United States to eleven, the present number being nine, and the creation of two additional judgeships. The territory to be traversed by the circuit judges is so great, and the business of the courts so steadily increasing, that it is growing more and more impossible for them to keep up with the business requiring their attention. Whether this would involve the necessity of adding two more Justices of the Supreme Court to the present number I submit to the judgment of Congress.

The attention of Congress is invited to the report of the Secretary of the Interior, and to the legislation asked for by him. The domestic interests of the people are more intimately connected with this Department than with either of the other Departments of Government. Its duties have been added to from time to time until they have become so onerous that without the most perfect system and order it will be impossible for any Secretary of the Interior to keep trace of all official transactions having his sanction and done in his name, and for which he is held personally responsible.

The policy adopted for the management of Indian affairs, known as the peace policy, has been adhered to with most beneficial results. It is confidently hoped that a few years more will relieve our frontiers from danger of Indian depredations.

I commend the recommendation of the Secretary for the extension of the homestead laws to the Indians, and for some sort of territorial government for the Indian Territory. A great majority of the Indians occupying this Territory are believed yet to be incapable of maintaining their rights against the more civilized and enlightened white man. Any territorial form of government given them, therefore, should protect them in their homes and property for a period of at least twenty years, and before its final adoption should be ratified by a majority of those affected.

The report of the Secretary of the Interior, herewith attached, gives much interesting statistical information, which I abstain from giving an abstract of, but refer you to the report itself.

The act of Congress providing the oath which pensioners must subscribe to before drawing their pensions cuts off from this bounty a few survivors of the war of 1812 residing in the Southern States. I recommend the restoration of this bounty to all such. The number of persons whose names would thus be restored to the list of pensioners is not large. They are all old persons who could have taken no part in the rebellion, and the services for which they were awarded pensions were in defense of the whole country.

The report of the Commissioner of Agriculture, herewith, contains suggestions of much interest to the general public, and refers to the approaching Centennial and the part his Department is ready to take in it. I feel that the nation at large is interested in having this Exposition a success, and commend to Congress such action as will secure a greater general interest in it. Already many foreign nations have signified their intention to be represented at it, and it may be expected that every civilized nation will be represented.

The rules adopted to improve the civil service of the Government have been adhered to as closely as has been practicable with the opposition with which they meet. The effect, I believe, has been beneficial on the whole, and has tended to the elevation of the service. But it is impracticable to maintain them without direct and positive support of Congress. Generally the support which this reform receives is from those who give it their support only to find fault when the rules are apparently departed from. Removals from office without preferring charges against parties removed are frequently cited as departures from the rules adopted, and the retention of those against whom charges are made by irresponsible persons and without good grounds, is also often condemned as a violation of them. Under these circumstances, therefore, I announce that if Congress adjourns without positive legislation on the subject of "civil-service reform," I will regard such action as a disapproval of the system, and will abandon it, except so far as to require examinations for certain appointees, to determine their fitness. Competitive examinations will be abandoned.

The gentlemen who have given their services without compensation, as members of the board to devise rules and regulations for the government of the civil service of the country, have shown much zeal and earnestness in their work, and to them, as well as to myself, it will be a source of mortification if it is to be thrown away. But I repeat that it is impossible to carry this system to a successful issue without general approval and assistance, and positive law to support it.

I have stated that three elements of prosperity to the nation, capital, labor, skilled and unskilled, and products of the soil, still remain with

us. To direct the employment of these is a problem deserving the most serious attention of Congress. If employment can be given to all the labor offering itself, prosperity necessarily follows. I have expressed the opinion, and repeat it, that the first requisite to the accomplishment of this end is the substitution of a sound currency in place of one of a fluctuating value. This secured, there are many interests that might be fostered, to the great profit of both labor and capital. How to induce capital to employ labor is the question. The subject of cheap transportation has occupied the attention of Congress. Much new light on this question will without doubt be given by the committee appointed by the last Congress to investigate and report upon this subject.

A revival of ship-building, and particularly of iron-steamship-building, is of vast importance to our national prosperity. The United States is now paying over \$100,000,000 per annum for freights and passage on foreign ships—to be carried abroad and expended in the employment and support of other peoples—beyond a fair percentage of what should go to foreign vessels, estimating on the tonnage and travel of each respectively. It is to be regretted that this disparity in the carrying-trade exists, and to correct it I would be willing to see a great departure from the usual course of Government in supporting what might usually be termed private enterprise. I would not suggest as a remedy direct subsidy to American steamship-lines, but I would suggest the direct offer of ample compensation for carrying the mails between Atlantic seaboard cities and the Continent on American-owned and American-built steamers and would extend this liberality to vessels carrying the mails to South American states and to Central America and Mexico, and would pursue the same policy from our Pacific sea-ports to foreign sea-ports on the Pacific. It might be demanded that vessels built for this service should come up to a standard fixed by legislation, in tonnage, speed, and all other qualities, looking to the possibility of Government requiring them at some time for war purposes. The right also of taking possession of them in such emergency should be guarded.

I offer these suggestions, believing them worthy of consideration, in all seriousness, affecting all sections and all interests alike. If anything better can be done to direct the country into a course of general prosperity, no one will be more ready than I to second the plan.

Forwarded herewith will be found the report of the commissioners appointed under an act of Congress approved June 20, 1874, to wind up the affairs of the District government. It will be seen from the report that the net debt of the District of Columbia, less securities on hand and available, is:

Bonded debt issued prior to July 1, 1874.....	\$3,883,940 43
3.65 bonds, act of Congress June 20, 1874.....	2,088,168 73
Certificates of the board of audit.....	4,770,558 45
	15,742,667 61

Less special-improvement assessments (chargeable to private property) in excess of any demand against such assessments.....	\$1,614,054 37
Less Chesapeake and Ohio Canal bonds.....	75,000 00
And Washington and Alexandria Railroad bonds.....	59,000 00
	<hr/>
In the hands of the commissioners of the sinking-fund	\$1,748,054 37
	<hr/>
Leaving actual debt less said assets.....	13,994,613 24

In addition to this there are claims preferred against the government of the District, amounting, in the estimated aggregate reported by the board of audit, to \$3,147,787.48, of which the greater part will probably be rejected. This sum can with no more propriety be included in the debt account of the District government than can the thousands of claims against the General Government be included as a portion of the national debt. But the aggregate sum thus stated includes something more than the funded debt chargeable exclusively to the District of Columbia. The act of Congress of June 20, 1874, contemplates an apportionment between the United States Government and the District of Columbia, in respect of the payment of the principal and interest of the 3.65 bonds. Therefore, in computing with precision the bonded debt of the District, the aggregate sums above stated as respects 3.65 bonds now issued, the outstanding certificates of the board of audit, and the unadjusted claims pending before that board should be reduced to the extent of the amount to be apportioned to the United States Government in the manner indicated in the act of Congress of June 20, 1874.

I especially invite your attention to the recommendations of the commissioners of the sinking fund relative to the ambiguity of the act of June 20, 1874; the interest on the District bonds, and the consolidation of the indebtedness of the District.

I feel much indebted to the gentlemen who consented to leave their private affairs and come from a distance to attend to the business of this District, and for the able and satisfactory manner in which it has been conducted. I am sure their services will be equally appreciated by the entire country.

It will be seen from the accompanying full report of the Board of Health that the sanitary condition of the District is very satisfactory.

In my opinion the District of Columbia should be regarded as the grounds of the National Capital, in which the entire people are interested. I do not allude to this to urge generous appropriations to the District, but to draw the attention of Congress, in framing a law for the government of the District, to the magnificent scale on which the city was planned by the founders of the Government; the manner in which, for ornamental purposes, the reservations, streets, and avenues were laid out; and the proportion of the property actually possessed by the General Government. I think the proportion of the expenses of the government and improvements to be borne by the General Government,

the cities of Washington and Georgetown and the county, should be carefully and equitably defined.

In accordance with section 3, act approved June 23, 1874, I appointed a board to make a survey of the mouth of the Mississippi River with a view to determine the best method of obtaining and maintaining a depth of water sufficient for the purposes of commerce, &c.; and in accordance with an act entitled "An act to provide for the appointment of a commission of engineers to investigate and report a permanent plan for the reclamation of the alluvial basin of the Mississippi River subject to inundation," I appointed a commission of engineers. Neither board has yet completed its labors. When their reports are received they will be forwarded to Congress without delay.

U. S. GRANT.

EXECUTIVE MANSION,
December 7, 1874.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas, pursuant to the second section of the act of Congress approved the 23d of March last, entitled "An act to authorize the President to accept for citizens of the United States the jurisdiction of certain tribunals in the Ottoman dominions and Egypt, established or to be established under the authority of the Sublime Porte and of the government of Egypt," the President is authorized, for the benefit of American citizens residing in the Turkish dominions, to accept the recent law of the Ottoman Porte ceding the right of foreigners possessing immovable property in said dominions;

And whereas, pursuant to the authority thus in me vested, I have authorized George H. Boker, accredited as minister resident of the United States to the Ottoman Porte, to sign, on behalf of this Government, the protocol accepting the law aforesaid of the said Ottoman Porte, which protocol and law are, word for word, as follows:

[Translation.]

The United States of America and His Majesty the Sultan being desirous to establish by a special act the agreement entered upon between them regarding the admission of American citizens to the right of holding real estate granted to foreigners by the law promulgated on the 7th of Sepher, 1284, (January 18th, 1867,) have authorized:

The President of the United States of America, George H. Boker, minister-resident of the United States of America near the Sublime Porte, and

His Imperial Majesty the Sultan, His Excellency A. Aarif Pasha, his minister of foreign affairs, to sign the Protocol which follows:

Protocol.

The law granting foreigners the right of holding real estate does not interfere with the immunities specified by the treaties, and which will continue to protect the person and the movable property of foreigners who may become owners of real estate.

As the exercise of this right of possessing real property may induce foreigners to establish themselves in larger numbers in the Ottoman Empire, the imperial government thinks it proper to anticipate and to prevent the difficulties to which the application of this law may give rise in certain localities. Such is the object of the arrangements which follow.

The domicile of any person residing upon the Ottoman soil being inviolable, and as no one can enter it without the consent of the owner, except by virtue of orders emanating from competent authority, and with the assistance of the magistrate or functionary invested with the necessary powers, the residence of foreigners is inviolable on the same principle, in conformity with the treaties, and the agents of the public force cannot enter it without the assistance of the consul or of the delegate of the consul of the power on which the foreigner depends.

By residence we understand the house of inhabitation and its dependencies: that is to say, the out-houses, courts, gardens, and neighboring inclosures, to the exclusion of all other parts of the property.

In the localities distant by less than nine hours' journey from the consular residence, the agents of the public force cannot enter the residence of a foreigner without the assistance of a consul, as was before said.

On his part the consul is bound to give his immediate assistance to the local authority, so as not to let six hours elapse between the moment which he may be informed and the moment of his departure, or the departure of his delegate, so that the action of the authorities may never be suspended more than twenty-four hours.

In the localities distant by nine hours or more than nine hours of travel from the residence of the consular agent, the agents of the public force may, on the request of the local authority, and with the assistance of three members of the council of the elders of the commune, enter into the residence of a foreigner, without being assisted by the consular agent, but only in case of urgency, and for the search and the proof of the crime of murder, of attempt at murder, of incendiarism, of armed robbery either with infraction or by night in an inhabited house, of armed rebellion, and of the fabrication of counterfeit money; and this entry may be made whether the crime was committed by a foreigner or by an Ottoman subject, and whether it took place in the residence of a foreigner or not in his residence, or any other place.

These regulations are not applicable but to the parts of the real estate which constitute the residence, as it has been heretofore defined.

Beyond the residence, the action of the police shall be exercised freely and without reserve; but in case a person charged with crime or offense should be arrested, and the accused shall be a foreigner, the immunities attached to his person shall be observed in respect to him.

The functionary or the officer charged with the accomplishment of a domiciliary visit, in the exceptional circumstances determined before, and the members of the council of elders who shall assist him, will be obliged to make out a *procès-verbal* of the domiciliary visit, and to communicate it immediately to the superior authority under whose jurisdiction they are, and the latter shall transmit it to the nearest consular agent, without delay.

A special regulation will be promulgated by the Sublime Porte, to determine the mode of action of the local police in the several cases provided heretofore.

In localities more distant than nine hours' travel from the residence of the consular agent, in which the law of the judicial organization of the *ralayet* may be in force, foreigners shall be tried without the assistance of the consular delegate by the council of elders fulfilling the function of justices of the peace, and by the tribunal of the canton, as well for actions not exceeding one thousand piasters as for offenses entailing a fine of five hundred piasters only at the maximum.

Foreigners shall have, in any case, the right of appeal to the tribunal of the arrondissement against the judgments issued as above stated, and the appeal shall be followed and judged with the assistance of the consul, in conformity with the treaties.

The appeal shall always suspend the execution of a sentence.

In all cases the forcible execution of the judgments, issued on the conditions determined heretofore, shall not take place without the co-operation of the consul or of his delegate.

The imperial government will enact a law which shall determine the rules of procedure to be observed by the parties, in the application of the preceding regulations.

Foreigners, in whatever locality they may be, may freely submit themselves to the jurisdiction of the council of elders or of the tribunal of the canton, without the assistance of the consul, in cases which do not exceed the competency of these councils or tribunals, reserving always the right of appeal before the tribunal of the arrondissement, where the case may be brought and tried with the assistance of the consul or his delegate.

The consent of a foreigner to be tried as above stated, without the assistance of his consul, shall always be given in writing, and in advance of all procedure.

It is well understood that all these restrictions do not concern cases which have for their object questions of real estate, which shall be tried and determined under the conditions established by the law.

The right of defense and the publicity of the hearings shall be assured in all cases to the foreigners who may appear before the Ottoman tribunals, as well as to Ottoman subjects.

The preceding dispositions shall remain in force until the revision of the ancient treaties, a revision which the Sublime Porte reserves to itself the right to bring about hereafter by an understanding between it and the friendly powers.

In witness whereof the respective plenipotentiaries have signed the protocol, and have affixed thereto their seals.

Done at Constantinople the eleventh of August, one thousand eight hundred and seventy-four.

(Signed)

A. AARIFI. [L. s.]

(Signed)

GEO. H. BOKER. [L. s.]

[Translation.]

Law conceding to foreigners the right of holding real estate in the Ottoman Empire.

Imperial Rescript.—Let it be done in conformity with the contents. 7 Sepher, 1284, (January 18, 1867.)

With the object of developing the prosperity of the country, to put an end to the difficulties, to the abuses, and to the uncertainties which have arisen on the subject of the right of foreigners to hold property in the Ottoman Empire, and to complete, in accordance with a precise regulation, the safeguards which are due to financial interests and to administrative action, the following legislative enactments have been promulgated by the order of his imperial majesty, the Sultan:

ARTICLE I. Foreigners are admitted, by the same privilege as Ottoman subjects, and without any other restriction, to enjoy the right of holding real estate, whether in the city or the country, throughout the empire, with the exception of the province of the Hédjaz, by submitting themselves to the laws and the regulations which govern Ottoman subjects, as is hereafter stated.

This arrangement does not concern subjects of Ottoman birth who have changed their nationality, who shall be governed in this matter by a special law.

ART. II. Foreigners, proprietors of real estate in town or in country, are in consequence placed upon terms of equality with Ottoman subjects in all things that concern their landed property.

The legal effect of this equality is—

1st. To oblige them to conform to all the laws and regulations of the police or of the municipality which govern at present or may govern hereafter the enjoyment, the transmission, the alienation, and the hypothecation of landed property.

2d. To pay all charges and taxes, under whatever form or denomination they may be, that are levied, or may be levied hereafter, upon city or country property.

3d. To render them directly amenable to the Ottoman civil tribunals in all questions relating to landed property, and in all real actions, whether as plaintiffs or as defendants, even when either party is a foreigner. In short, they are in all things to hold real estate by the same title, on the same condition, and under the same forms as Ottoman owners, and without being able to avail themselves of their personal nationality, except under the reserve of the immunities attached to their persons and their movable goods, according to the treaties.

ART. III. In case of the bankruptcy of a foreigner possessing real estate, the assignees of the bankrupt may apply to the authorities and to the Ottoman civil tribunals requiring the sale of the real estate possessed by the bankrupt, and which by its nature and according to law is responsible for the debts of the owner.

The same course shall be followed when a foreigner shall have obtained against another foreigner owning real estate a judgment of condemnation before a foreign tribunal.

For the execution of this judgment against the real estate of his debtor, he shall apply to the competent Ottoman authorities, in order to obtain the sale of that real estate which is responsible for the debts of the owner; and this judgment shall be executed by the Ottoman authorities and tribunals only after they have decided that the real estate of which the sale is required really belongs to the category of that property which may be sold for the payment of debt.

ART. IV. Foreigners have the privilege to dispose, by donation or by testament, of that real estate of which such disposition is permitted by law.

As to that real estate of which they may not have disposed, or of which the law does not permit them to dispose by gift or testament, its succession shall be governed in accordance with Ottoman law.

ART. V. All foreigners shall enjoy the privileges of the present law, as soon as the powers on which they depend shall agree to the arrangements proposed by the Sublime Porte for the exercise of the right to hold real estate.

Now, therefore, be it known that I, ULYSSES S. GRANT, President of the United States of America, have caused the said protocol and law to be made public for the information and guidance of citizens of the United States.

In witness whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-ninth day of October, in the year of our Lord one thousand eight hundred and seventy-four, and of the Independence of the United States of America the [SEAL.] ninety-ninth.

U. S. GRANT.

By the President :

HAMILTON FISH,

Secretary of State.

Mr. Campbell to Mr. Fish.

UNITED STATES NORTHERN BOUNDARY COMMISSION,
Washington, December 2, 1874.

SIR: I have the honor to transmit herewith, for the information of the Department, a preliminary report and sketch from Major W. J.

Twining, United States Engineers, chief astronomer of the commission, showing the progress of the survey of the boundary during the past season.

From this report it will be seen that the survey of the boundary-line defined in the treaty of 1818 has been completed, and connected (on the summit of the Rocky Mountains) with the eastern terminus of the boundary-line from the Pacific Ocean defined in the treaty of 1846. The whole boundary-line between the United States and British Possessions has now been established, with the exception of the boundary between British Columbia and Alaska.

The United States commission and the British commission are now engaged in working out the results of their field operations for the purpose of preparing the final joint maps necessary to a proper representation of the boundary-line and the territories adjacent thereto.

I have the honor to be, very respectfully, your obedient servant,
ARCHIBALD CAMPBELL,
Commissioner Northern Boundary Survey.

Hon. HAMILTON FISH,
Secretary of State.

Major Twining to Mr. Campbell.

UNITED STATES NORTHERN BOUNDARY COMMISSION,
Washington, D. C., December 1, 1874.

SIR: In answer to your request I respectfully submit a brief statement of the work performed by the commission during the past summer.

During the summer of 1873 the boundary was surveyed and marked from the "Red River of the North" west to longitude $106^{\circ} 12'$. For a distance of ninety miles the marks were of a temporary nature, and are to be replaced by permanent monuments. This arrangement resulted from a difference of opinion which existed at that time in regard to the true definition of the 49th parallel of latitude.

During the winter of 1873-74 the surveys east of the Red River were completed to the Lake of the Woods, including the shore-line of that lake as far east as the Rainy River.

During the present season the work has been executed in the same manner as heretofore, under the agreement made last year between the chief astronomers of the United States and British commissions. This agreement was to the effect that the officers of the United States were to determine astronomical stations at intervals of forty miles, and to survey a belt of territory five miles wide south of the parallel; the English to determine a similar series of astronomical stations, and to survey an equal belt of topography north of the line.

The distance remaining to be surveyed during the present year was three hundred and fifty-eight miles, from longitude $106^{\circ} 12'$ to longitude $114^{\circ} 05'$. I organized the parties in St. Paul, Minn., on the 1st of June, and proceeded, by way of the Northern Pacific Railroad and the Missouri River, to Fort Buford. Thence, traveling by land, the advanced working-parties reached the line, at the initial point of this year's operations, on the 1st of July.

The shortness of the season, and the immense distance to be traveled after the work should be completed, required that it should be finished early in September. With

this object in view, the working-parties were pushed to the utmost limit of their endurance, and, by the 1st of September, the eight astronomical stations assigned to the United States commission had been determined (by one party) and the line had been connected with the last station of the northwestern boundary, at the summit of the Rocky Mountains. Full details of the survey have been given in the preliminary reports from this office. Without recapitulation, I will only say that the results have been in every respect satisfactory.

The commission returned to Saint Paul by way of the Missouri River and the Northern Pacific Railroad, making the distance from Fort Benton to Bismarck, (1,200 miles,) in open boats, in eighteen days. The men were discharged on the 5th of October.

Thus in four months this expedition accomplished a journey of thirty-seven hundred miles, nine hundred of which was by land, and twelve hundred by water in open boats, besides surveying and marking three hundred and fifty-eight miles of the boundary-line.

The topographical parties have been continuously in the field, both winter and summer, from the 1st of June, 1873, until the present time, with the exception of two months in the spring of 1874. They have demonstrated by experience that instrumental work can be done in that high latitude, even in the most rigorous part of the winter, where the country is wooded. On the open plains such exposure would be, beyond question, exceedingly dangerous.

The limits of this report will allow only a very brief statement of the general character of the country passed over.

That portion crossed by the part of the line surveyed during the present year was found to be an open plain entirely destitute of timber, but easily practicable for wagon-trains, except in the vicinity of Frenchman's Creek and the crossing of Milk River, where wide detours had to be made to avoid the *Bad Lands*.

From longitude 106° to the crossing of Milk River the country cannot be called attractive. The rain-fall is small, and water consequently scarce during the summer months. The soil is alkaline, and produces mostly sage-brush and cactus.

From the Sweet Grass Hills to the Rocky Mountains its character is entirely changed. The rain-fall appears to be ample. The belt along the foot of the mountains, in addition to scenery of rare beauty, presents to the eye of the practical man the more solid advantage of an unsurpassed fertility. Northwestern Montana is still the range of immense herds of buffaloes, whose numbers, contrary to the commonly received opinion, are constantly increasing. This region is the country of the Blackfoot and Piegan tribes of Indians. It is also the debatable ground of the North Assiniboines, the Gros Ventres of the Prairie, and the River Crows, while an occasional war-party of Sioux may be found as far northwest as the Sweet Grass Hills. With the exception of the Sioux, these tribes appear to be peaceably enough disposed.

Very respectfully, your obedient servant,

W. J. TWINING,
Capt. Engineers, Chief Astronomer.

ARCHIBALD CAMPBELL, ESQ.,
Commissioner Northern Boundary.

PERU.

No.	From whom and to whom.	Date.	Subject.	Page.
		1873.		
510	Mr. Thomas to Mr. Fish	Nov. 25	Apprehended public disaster	795
511	do	Dec. 13	Application of Chinese residents in Peru for the assistance of the United States minister in enabling them to communicate with China in respect to the treatment of coolies in Peru.	795
512	do	Dec. 30	Decree of President Pardo prescribing laws and regulations for the government of the banks of Peru.	796
		1874.		
513	do	Jan. 26	Military outbreak in Lima	799
514	do	May 17	Report of a commission appointed to estimate the quantity of guano, the property of Peru.	800
515	do	Aug. 1	Message of President Pardo to the Congress of Peru; reply of the Congress.	804

PORTUGAL.

		1874.		
516	Mr. Lewis to Mr. Fish	Jan. 3	Opening of the Portuguese Cortes; speech of the King.	805
517	do	Feb. 4	Measures of the Portuguese government for the suppression of the cooly-traffic at Macao.	807

RUSSIA.

		1873.		
518	Mr. Jewell to Mr. Fish	Dec. 31	Treaty between Russia and Bokhara; abolition of slave-trade in the latter country.	807
		1874.		
519	do	Jan. 24	Marriage of the Grand Duchess Marie Alexandrovna to the Duke of Edinburgh.	801
520	do	Jan. 27	Facilities promised to American astronomers for the observation of the transit of Venus at Vladivostok.	807
521	do	Feb. 16	Receipt of the Emperor respecting primary schools.	80
522	do	Feb. 17	Visit of the Emperor of Austria to Russia.	81
523	do	Feb. 23	Disturbances in Poland.	81
524	do	Mar. 10	Including report of Mr. Schuyler upon Central Asia.	81
525	do	Mar. 13	Including copy of a note from the Russian foreign office, stating that the Emperor has authorized the landing at Vladivostok of the United States expedition for the purpose of observing the transit of Venus.	83
526	do	May 11	Financial condition and prospects of Russia	83
527	do	May 13	Including newspaper extract in relation to the Hebrews in Roumania.	83
528	do	May 20	Emigration of the Mennonites.	83
529	do	June 22	A visit to Cronstadt	83
530	do	July 18	The minister takes informal leave of the Emperor of Russia.	84
531	Mr. Schuyler to Mr. Fish	July 31	Changes in the Russian government	84
532	do	Aug. 12	Including newspaper extracts respecting the rumored cessation of the northern provinces of Mexico to the United States.	84
533	do	Aug. 30	Refusal of the Emperor of Russia to recognize the Spanish Republic.	84
534	do	Aug. 29	Marriage of the Grand Duke Vladimir Alexandrovitch to the Duchess Marie of Mecklenburg-Schwerin.	84

SPAIN.

		1873.		
535	General Sickles to Mr. Fish	Oct. 27	Including copy of a decree announcing the visit of the minister of ultramar to Cuba and Porto Rico.	84
536	do	Oct. 27	Condition of the Spanish finances	84
537	do	Oct. 30	Conference with the minister of ultramar previous to his departure for the colonies.	84
538	do	Nov. 7	Transmitting a copy of a communication addressed by the United States minister to the executive committee of the Spanish Abolition Society, on behalf of the President of the United States.	84
539	do	Dec. 15	Speech of General Jovellar on taking possession of the government of Cuba.	84

SPAIN—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
50	General Sickles to Mr. Fish.	1873. Dec. 20	Emancipation bill to be presented to the Cortes; Mr. Labra's essay on emancipation in Porto Rico	850
51	do	1874. Jan. 3	Resignation of President Castelar; dispersal of the Cortes by General Pavia.	852
52	(Telegram.) do	Jan. 3	Provisional government formed by Marshal Serrano.	852
53	(Telegram.) do	Jan. 4	Marshal Serrano names himself president of the executive power and appoints a ministry.	852
54	do	Jan. 6	Decree appointing a new commission to report the modifications necessary to adapt the penal laws of Spain to the colonies.	853
55	do	Jan. 8	The executive will wait until tranquility is restored before ordering elections; unofficial relations with England continue.	854
56	do	Jan. 15	Inclosing translation of a note from Mr. Sagasta, announcing the organization of an executive authority in place of the late government.	854
57	do	Jan. 15	Abolition of the tax on exports	855
58	do	Jan. 31	Chinese commission to Cuba	856
59	do	Feb. 3	Decree declaring part of the northern coast of Spain in a state of blockade.	857
60	Mr. Fish to Mr. Cushing.	Feb. 6	General instructions in reference to the island of Cuba.	859
61	do	Feb. 6	Containing instructions to ask that estates of American citizens seized in Cuba in violation of the treaty of 1795 be restored.	863
62	Mr. Adee to Mr. Fish	Feb. 10	Inclosing copy of regulations for the Peruvian blockade of 1864.	865
63	do	Feb. 24	Decree extending the time fixed by the decree declaring the northern coast of Spain in a state of blockade.	866
64	Mr. Fish to Mr. Cushing.	Mar. 4	Inclosing copy of a dispatch from the United States consul-general at Havana relating to the decree of the captain-general declaring the island of Cuba in a state of siege.	870
65	Mr. Adee to Mr. Fish	Mar. 4	Political and military situation upon the investment of Marshal Serrano with the chief magistracy of the Spanish nation; decree conferring upon him the chief magistracy.	871
66	do	Mar. 4	Decree indefinitely suspending the blockade of the northern coast of Spain.	876
67	do	Mar. 9	Inclosing letter from Porto Rico, published in "La Epoca."	876
68	do	Mar. 14	Inclosing decrees accepting the resignation of General Jovellar as captain-general and superior civil governor of Cuba, and appointing General José de la Concha as his successor; also decrees establishing certain administrative changes in Cuba.	881
69	do	Apr. 19	The military situation in Spain	883
70	Mr. Cushing to Mr. Fish	May 6	Delay in reaching his post; military and political affairs.	884
71	do	June 1	Presentation of the minister's credentials as envoy extraordinary and minister plenipotentiary of the United States.	885
72	do	June 18	Military operations between the Republicans and Carlists.	887
73	do	June 18	Politics and finances	888
74	do	June 30	Battle near Estella, and fall of General Concha. Mr. Camacho's report on the finances.	889
75	do	July 2	Funeral of General Concha; prospects of success against the Carlists.	891
76	do	July 20	Surrender of Cuenca to the Carlists; decrees issued July 18, 1874.	893
77	do	July 31	Rumored intervention of European powers in the affairs of Spain; sanguinary acts of the Carlists.	898
78	do	Aug. 6	Inclosing copy of circular addressed by the minister of state to the diplomatic representatives of Spain in foreign countries.	900
79	do	Aug. 10	Inclosing extracts from regulations issued by the ministry of war.	903
80	do	Aug. 14	Position of the United States in relation to the recognition of Spain.	904
81	do	Aug. 14	Possible maritime complications in consequence of so many foreign cruisers being ordered to the Bay of Biscay.	905
82	do	Aug. 15	The military situation in Spain	906
83	do	Aug. 24	Contradicting the rumor of the intended cession of Puerto Rico to Germany.	907
84	do	Aug. 25	Massacre by the Carlists of one hundred and ninety-three prisoners of war.	908

SPAIN—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1874.		
575	Mr. Cushing to Mr. Fish	Aug. 25	Strength of the Spanish navy	909
576	Mr. Fish to Mr. Cushing	Aug. 27	Atrocities of the civil war in Spain	910
577	Mr. Cushing to Mr. Fish	Aug. 27	Results of the conscription; the military situation	910
578	do	Sept. 16	Official contradiction of the rumor respecting the cession of Puerto Rico to Germany.	913
579	do	Sept. 22	Inclosing copy of a letter from Admiral Polo de Bernabé to El Gobierno, declaring the correspondence respecting Puerto Rico, attributed to him by a New York journal, to be a forgery and a falsehood.	913
580	Mr. Cadwalader to Mr. Cushing.	Oct. 7	Approving the minister's course respecting the alleged transfer of Puerto Rico to Germany.	914
581	do	Oct. 20	Admiral Polo's letter respecting the correspondence attributed to him by the Freeman's Journal.	914
582	Admiral Polo de Bernabé to Mr. Fish.	Feb. 19	Inclosing translation of a memorandum addressed by the executive power of Spain to foreign powers.	914
583	Señor Ulloa to Admiral Polo de Bernabé.	May 22	Circular addressed to the diplomatic representatives of Spain, inclosing the manifesto addressed by the new ministry to the Spanish republic.	917

CORRESPONDENCE RESPECTING THE STEAMER VIRGINIUS.

I.—Correspondence with the legation of the United States at Madrid.

		1873.		
584	General Sickles to Mr. Fish. (Telegram.)	Nov. 6	Virginus captured six miles from Jamaica. Captain-general ordered, on Sickles's suggestion, to await orders.	922
585	Mr. Fish to General Sickles. (Telegram.)	Nov. 7	The summary proceedings demand investigation as inhuman; reparation will be required if American citizens have been wrongfully executed.	922
586	General Sickles to Mr. Fish.	Nov. 7	Reporting his interviews with Mr. Carvajal and with President Castelar; the latter had ordered that no person be executed without authority of Cortes; General Sickles expresses satisfaction.	922
587	do (Telegram.)	Nov. 8	Mr. Fish's telegram of 7th communicated to minister of state; Spanish government would spontaneously do all required by public law and treaty obligation.	923
588	do (Telegram.)	Nov. 8	Spanish government regrets execution of four prisoners; further orders sent to stay proceedings.	924
589	do	Nov. 8	Detailed account of interview with minister of state; Minister of state says no formal demand will be necessary on the part of the United States; Spanish government will at once take up the question and decide it; the case of the Deerhound cited; the same principles will be applied to the Virginus; imperative orders sent from Madrid to cease proceedings.	924
590	do (Telegram.)	Nov. 10	No detailed report yet received from captain-general.	926
591	do	Nov. 11	Has asked that consul may confer with American citizens, prisoners at Santiago.	927
592	Mr. Fish to General Sickles. (Telegram.)	Nov. 11	Havana Official Bulletin of 5th says communication with Santiago interrupted; voluntary restoration of vessel and tender of reparation expected.	927
593	do (Telegram.)	Nov. 12	Accounts from Havana of execution of captain and thirty-six of crew and eighteen others; if correct, General Sickles to protest against the act as brutal and barbarous, and ample reparation will be demanded; confidentially informed that doubts exist as to right of Virginus to carry the flag.	927
594	do	Nov. 12	With copies of telegrams commenting on the proceedings; course of Spanish government accepted as evidence of willingness to administer justice; condemnation of the act should be followed by punishment; instructed to say so to Spanish government, and that this Government fears that Spain cannot control the insurrection of the Casino Espagnole; awaiting information as to Virginus.	92

STEAMER VIRGINIUS—Continued.

No. From whom and to whom.	Date.	Subject.	Page.
	1873.		
23 General Sickles to Mr. Fish	Nov. 12	With copy of note to minister of state requesting that American prisoners may enjoy privileges guaranteed by treaty of 1795.	929
24 do (Telegram.)	Nov. 12	The case of the Deerhound	930
27 do	Nov. 12	Same subject	930
28 do	Nov. 12	Interview with President Castelar, who says such scandals must cease; that interrogatories had been addressed to the captain-general, and that as soon as replied to General Sickles would receive a communication.	931
29 do (Telegram.)	Nov. 12	Preliminary report; Virginus attempted a landing; pursuit began in Spanish waters; papers irregular.	932
30 do	Nov. 13	Detailed account of interview with Carvajal on same subject; comments of General Sickles on the report.	932
31 do	Nov. 13	Minister of state informs him of execution of forty-nine prisoners; orders from Madrid arrived too late to prevent it; slaughter had ceased; discussion between General Sickles and the minister; orders will be given to assure to United States citizens protection of ordinary tribunals; General Sickles urges speedy solution; calls attention to executions in pursuance of previous convictions made in absence of accused.	933
32 do (Telegram.)	Nov. 13	Account of the same interview	935
33 Mr. Fish to General Sickles	Nov. 14	Transmitting copies of telegrams	936
34 do (Telegram.)	Nov. 14	Vice-consul at Santiago not allowed to telegraph to Kingston.	936
35 do (Telegram.)	Nov. 14	Instructing him to demand restoration of Virginus, surrender of survivors, salute to the flag, and punishment of guilty officials. In case of refusal within twelve days to close legation and leave Madrid.	936
36 General Sickles to Mr. Fish	Nov. 14	With copy of note to minister of state protesting against summary executions.	937
37 do (Telegram.)	Nov. 14	Protest made; telegrams received	937
38 do (Telegram.)	Nov. 14	Receipt of telegrams	937
39 do (Telegram.)	Nov. 15	Demand made by note	938
40 do (Telegram.)	Nov. 15	An ill-tempered reply, rejecting protest; Spain would decide questions according to law and her dignity.	938
41 Mr. Fish to General Sickles (Telegram.)	Nov. 15	Hall reports fifty-seven more executions, (see No. 730 post); if Spain cannot redress these outrages, United States will; these instructions to be used cautiously and discreetly.	938
42 General Sickles to Mr. Fish (Telegram.)	Nov. 15	Duplicate of protest; receipt of telegrams	938
43 do	Nov. 16	With copy of note to Mr. Carvajal demanding reparation.	939
44 do	Nov. 16	With copy of Mr. Carvajal's reply, and of General Sickles's rejoinder; the hostile and abusive attitude of the Madrid press.	939
45 do	Nov. 16	Transmitting copy of note to minister of state respecting refusal of permission to consul at Santiago to telegraph.	944
46 do	Nov. 16	Transmitting copy of note to minister of state respecting further executions reported from Havana. (See No. 614, supra.)	945
47 do (Telegram.)	Nov. 16	Same subject; reports from Havana denied by Castelar.	945
48 do (Telegram.)	Nov. 16	British minister is instructed respecting execution of seventeen British subjects.	946
49 Mr. Fish to General Sickles (Telegram.)	Nov. 17	Instructing him to cable the text of his correspondence with the Spanish government.	946
50 General Sickles to Mr. Fish	Nov. 17	Transmitting copy of note from Carvajal, stating that authorities at Santiago have been instructed to allow consul to communicate with American prisoners.	946
51 do	Nov. 18	Transmitting copy of reply of minister of state to demand for reparation.	947
52 do	Nov. 18	Transmitting copy of reply of minister of state to note of November 16, respecting reports from Havana. (See No. 616, supra.)	947

STEAMER VIRGINIUS—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1873.		
623	General Sickles to Mr. Fish. (Telegram.)	Nov. 18	Same subject as No. 624	950
624	do	Nov. 18	Same subject as No. 623	951
625	do	Nov. 18	Reply of minister of state to note of November 15, (see No. 616, <i>supra</i> ;) General Sickles regards it as a refusal, and proposes to close the legation unless otherwise ordered.	951
626	do	Nov. 18	Same subject; he regards the note as an invita- tion to a discussion.	951
627	do	Nov. 18	Asking that a vessel may be ordered to Valencia to take him to France.	952
628	do	Nov. 19	Transmitting copy of Carvajal's reply rejecting protest.	952
629	do	Nov. 19	Transmitting copy of private letter from General Sickles to Mr. Carvajal, dated November 6.	953
630	do	Nov. 19	Is waiting instructions	953
631	do	Nov. 19	Popular feeling in Madrid violent and abusive ...	954
632	do	Nov. 19	Good offices of England asked and refused, unless on the basis of ample reparation.	954
633	do	Nov. 19	Madrid papers announce the postponement of the question till Congress meets.	954
634	do	Nov. 19	Correspondence sent to London	954
635	Mr. Fish to General Sickles. (Telegram.)	Nov. 19	Telegrams received; instructions will be sent im- mediately.	955
636	do	Nov. 19	Reports of further executions contradicted from Havana, (see No. 733, <i>post</i> ;) Spanish minister in Washington has shown a telegram from his gov- ernment, asking time for inquiry and expressing intention to make reparation; this regarded as a reconsideration of decision communicated to General Sickles; he will, therefore, defer his departure.	955
637	do	Nov. 20	Postponement till 26th agreed to	955
638	General Sickles to Mr. Fish. (Telegram.)	Nov. 20	Unsatisfactory tone of the notes from the minister of state.	956
639	do	Nov. 20	Same subject; differences between representations at Madrid and those in Washington; advises his withdrawal from Madrid; advises that Ital- ian government be requested to authorize its minister to accept custody of library and property.	956
640	Mr. Fish to General Sickles (Telegram.)	Nov. 21	President decides that he must remain at his post; this Government must take into consideration the representations made at Washington; a vessel cannot be sent to Valencia.	957
641	General Sickles to Mr. Fish. (Telegram.)	Nov. 21	Efforts in Spain to conciliate England	957
642	do	Nov. 21	Receipt of instructions acknowledged	957
643	do	Nov. 23	Same	958
644	Mr. Fish to General Sickles (Telegram.)	Nov. 23	Have requested Italian government as suggested, (No. 639, <i>supra</i> ;) arbitration has been proposed and declined.	958
645	General Sickles to Mr. Fish. (Telegram.)	Nov. 24	Asking instructions	958
646	Mr. Fish to General Sickles. (Telegram.)	Nov. 25	If no accommodation reached by the close of to- morrow, he is to leave; if a proposition is sub- mitted, he will refer it to Washington and defer action.	958
647	General Sickles to Mr. Fish. (Telegram.)	Nov. 25	Lord Granville regards the reparation demanded as just and moderate.	959
648	do	Nov. 26	Forwarding copy of note to minister of state, ask- ing for his passports.	759
649	do	Nov. 26	President Castelar says General Sickles will re- ceive a note to-day recognizing the principles on which the American demand is made, and asking a delay till December 25, for investiga- tion.	960
650	do	Nov. 26	Receipt of instructions; has notified minister that he may defer reply to request for passports.	960
651	do	Nov. 26	Transmits the substance of a note received from the minister of state, containing a proposal for an adjustment.	961
652	do	Nov. 26	Comment upon the note of the minister of state ...	961

STEAMER VIRGINIUS—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1873.		
633	General Sickles to Mr. Fish.	Nov. 27	Transmits translation of the note from the minister of state.	961
634	do	Nov. 27	Transmits copies of a private note from Mr. Carvajal to General Sickles, and his reply.	963
635	Mr. Fish to General Sickles. (Telegram.)	Nov. 27	Transmitting copy of Senate resolution of June 16, 1858, that detention of American vessels on the high seas by force in time of peace is in derogation of the sovereignty of the United States.	963
636	General Sickles to Mr. Fish. (Telegram.)	Nov. 28	Has reason to think Spanish government will yield our terms; hopes to announce result that afternoon.	964
637	do	Nov. 28	Instructions received. Proposes to renew request for passports.	964
638	do	Nov. 28	Transmitting correspondence with Italian minister at Madrid respecting charge of effects of legation.	964
639	do	Nov. 28	Announcing that it had been informally agreed at Madrid the previous day that reparation should be made in accordance with the American demand; that he is now informed that a different proposition has been authorized by Mr. Fish and accepted by the Spanish government; inquires whether it is true.	965
640	Mr. Fish to General Sickles.	Nov. 28	Supposing, from the tenor of General Sickles's dispatches, that he had left Madrid, the reply to the last Spanish proposal was communicated to Admiral Polo, who now says negotiations are going on at Madrid; having received notice that General Sickles would demand his passports at 3 to-day. (see 74, <i>supra</i> .) it is supposed that those negotiations have dropped.	966
641	General Sickles to Mr. Fish. (Telegram.)	Nov. 29	Communicates substance of a note from minister of state respecting settlement; comments adversely upon it, and advises insistence upon original terms.	966
642	do	Nov. 29	Same subjects as 639 and 661; incloses text of the correspondence.	967
643	Mr. Fish to General Sickles. (Telegram.)	Nov. 29	Spanish minister yesterday made a proposal embracing substance of demands of 15th, with slight variations, which has been accepted and protocol signed. (See 707, <i>post</i> .)	969
644	do	Nov. 29	Remain at post	969
645	General Sickles to Mr. Fish. (Telegram.)	Nov. 29	Acknowledging receipt of 664	969
646	do	Nov. 30	Capture of <i>Virginus</i> made by order of commander of fleet.	970
647	Mr. Fish to General Sickles (Telegram.)	Dec. 1	Stating the substance of the arrangement made with Admiral Polo. (See No. 707, <i>post</i> .)	970
648	do	Dec. 2	The delay on the part of Spain in carrying out the agreements in the protocol excites apprehensions; is instructed to express to minister of state the President's disappointment, and that he looks for the immediate execution of the agreement.	970
649	Mr. Fish to the diplomatic officers and consuls-general of the United States. (circular.)	Dec. 3	Circular-instructions inclosing copy of the President's annual message, and of the protocol of November 29. (See No. 707, <i>post</i> .)	971
650	Mr. Fish to General Sickles.	Dec. 3	Inclosing copies of Consul-General Hall's dispatches. (See Nos. 734, 735, <i>post</i> .)	971
651	General Sickles to Mr. Fish (Telegram.)	Dec. 3	Powers sent to Admiral Polo to negotiate place and time for surrender of <i>Virginus</i> .	972
652	do	Dec. 3	Same subject	972
653	Mr. Fish to General Sickles. (Telegram.)	Dec. 4	Admiral Polo is instructed to consult authorities in Havana respecting time and place of surrender; represent the urgency of the case and necessity there should be no more delay.	972
654	General Sickles to Mr. Fish (Telegram.)	Dec. 5	Admiral Polo will be instructed to lose no time in coming to an understanding.	972
655	do	Dec. 6	Semi-officially announced that his conduct is disapproved; he offers to tender his resignation.	973
656	Mr. Fish to General Sickles (Telegram.)	Dec. 6	Alleged publication unauthorized; no dissatisfaction expressed; important that he should remain.	973
657	do	Dec. 8	Agreement fixing time and place for surrender signed.	973
658	General Sickles to Mr. Fish (Telegram.)	Dec. 15	President Castelar informs him of surrender of <i>Virginus</i> and survivors.	973

STEAMER VIRGINIUS—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1873.		
679	General Sickles to Mr. Fish. (Telegram.)	Dec. 16	Requesting publication of telegram tendering resignation, and reply.	974
680	Mr. Fish to General Sickles. (Telegram.)	Dec. 17	Declining to publish telegrams respecting resignation, as it was hypothetical.	974
681	.....do..... (Telegram.)	Dec. 18	Official information of surrender of <i>Virginus</i>	974
682	General Sickles to Mr. Fish. (Telegram.)	Dec. 20	Tenders his resignation.....	974
683	.....do..... (Telegram.)	Dec. 20	Stated in Madrid, by authority, that Spain will require the restoration of the <i>Virginus</i> .	975
684	Mr. Fish to General Sickles. (Telegram.)	Dec. 20	Resignation accepted; Attorney-General decides that <i>Virginus</i> was not rightfully carrying flag at time of capture; salute will be dispensed with.	975
685	.....do..... (Telegram.)	Dec. 20	Official advices of surrender of survivors.....	975
686	General Sickles to Mr. Fish. (Telegram.)	Dec. 26	Asking for publication of correspondence respecting resignation.	975
687	Mr. Fish to Mr. Adee.....	Dec. 31	In reply to No. 662, <i>supra</i> ; regrets that it was not stated with whom the informal arrangement was made; cannot assume that Spain receded from her undertakings; the point of honor once conceded by Spain, we could then make the other concessions to her.	976
		1874.		
688	General Sickles to Mr. Fish.	Jan. 31	Spanish government had revoked the authority given by General Rodas to subordinate commanders to shoot prisoners; the conduct of the authorities at Santiago finds no justification in the orders of the government.	977

II.—CORRESPONDENCE AND NEGOTIATIONS WITH THE SPANISH LEGATION AT WASHINGTON.

		1873.		
689	Mr. Fish to Admiral Polo...	Nov. 12	Has received intelligence of the shooting of fifty-three persons, taken from the <i>Virginus</i> ; the story too shocking and cruel to be credible. Asks if he has more authentic intelligence.	977
690	Admiral Polo to Mr. Fish...	Nov. 12	Has received no information.....	977
691	Copies of telegrams to Admiral Polo. [Handed by Admiral Polo to Mr. Fish, November 15.]	Nov. 15	Papers of <i>Virginus</i> irregular; order from Madrid did not reach Santiago in time to stay executions, owing to destruction of telegraph-wires; the <i>Virginus</i> a pirate.	977
692	Copies of telegrams to Admiral Polo. [Handed by Admiral Polo to Mr. Fish, November 17.]	Nov. 17	Spain cannot adopt a final resolution until all the facts are known.	977
693	Admiral Polo to Mr. Fish..	Nov. 18	Inclosing copy of a telegraphic dispatch from the minister of state at Madrid, in which it is said that Spain cannot answer till the facts are known, and is resolved to preserve the integrity of its territory, but will observe the obligations of international law and the letters of all treaties.	979
694	Telegram from the Secretary of State, Madrid, to Admiral Polo. (Handed to Mr. Fish by Admiral Polo.)	Nov. 20	Proposing an arbitration, and the surrender of the vessel into the hands of the arbitrators; the authority of Spain is respected in Cuba; the evidence is conflicting; this is a reason for arbitration; Spain is acting in good faith.	980
695	Admiral Polo to Mr. Fish..	Nov. 20	Inclosing copy of telegram from minister of state, in which it is said that Spanish authority is respected in Cuba; preematory orders issued.	980
696	Interview between Admiral Polo and Mr. Fish.	Nov. 21	Mr. Fish declines to submit to arbitration the question of an indignity to the flag; is willing to submit all questions which are properly subjects of reference; is surprised to find no expression from Spain of disapproval of the hasty executions, or of readiness to release the vessel and survivors; arbitration would be postponed; it is desirable to have the settlement complete before assembling of Congress. The United States strongly desires a friendly settlement.	981
697	Admiral Polo to Mr. Fish...	Nov. 23	Notifying him when and where the testimony of Greenwood and other witnesses will be taken.	982
698	.....do.....	Nov. 23	Inclosing telegram from Madrid that the reported hostile manifestations against General Sickles are not true.	982

STEAMER VIRGINIUS—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1873.		
689	Mr. Fish to Admiral Polo...	Nov. 24	Respecting the proposed examination of witnesses in New York.	9-3
700	Telegram from the secretary of state, Madrid, to Admiral Polo. (Handed by Admiral Polo to Mr. Fish.)	Nov. 24	Asking whether the United States will await the result of investigation by Spain; whether the President will submit question to Congress; and for a statement of points of offense in view of treaty stipulations and international law.	9-3
701	Memorandum of statement by Mr. Fish to Admiral Polo.	Nov. 24	Reasons why it is impracticable to wait; reasons why President must submit facts to Congress. General statement of the points of offense.	9-4
702	Telegram from secretary of state, Madrid, to Admiral Polo. (Handed by Admiral Polo to Mr. Fish.)	Nov. 25	The news contradictory as to right of Virginius to carry United States flag; it may appear that she is the subject of reclamations against United States; Spain suspends her reclamations, and asks United States to do the same, till facts are known; no satisfaction possible till right to demand it established.	9-4
703	Memorandum of interview between Mr. Fish and Admiral Polo.	Nov. 25	Admiral Polo reads No. 702; Mr. Fish replies that United States, in the interest of all maritime powers, (including Spain,) deny right of capture of documented vessels on high seas in time of peace; the right to inquire into validity of papers is in the power issuing them, which the United States are prepared to do; the United States will consider the subject of reclamations when the honor of the flag is atoned for; the identity of the Virginius unquestioned; any irregularity in papers, therefore, merely technical.	9-5
704	do	Nov. 27	Mr. Fish reads dispatch from General Sickles; (See No. 651 <i>supra</i> ;) says the United States cannot accept this proposal; this communication is made to Admiral Polo because it is supposed General Sickles has left Madrid; the proposition is virtually that Spain should hold the vessel while seeking proof to justify her capture. Admiral Polo asks whether, if the vessel be given up, inquiries would be instituted by the United States, with a view to punishment of any who might be found to have violated the laws of United States, reserving question of salute for further information; Mr. Fish consults the President and accepts proposal; if vessel and survivors are delivered forthwith, the salute will be dispensed with, if Spain, before December 25, satisfies the United States that the Virginius had no right to carry the flag; in that case proceedings will be commenced by United States against vessel and persons implicated; but Spain is also to proceed in accordance with the second proposition to General Sickles.	9-6
705	Telegram from secretary of state, Madrid, to Admiral Polo. (Handed to Mr. Fish by Admiral Polo.)	Nov. 28	Negotiations renewed in Madrid; any arrangements made will be carried out in Cuba.	9-7
706	do	Nov. 28	Expressing satisfaction at happy termination of negotiations.	9-7
707	Protocol of conference between Mr. Fish and Admiral Polo.	Nov. 29	Carrying out the agreement stated in No. 704.	9-7
708	Admiral Polo to Mr. Fish ...	Dec. 1	Has not yet received his instructions for naming time and place for surrender; expects them every moment; asks, therefore, for extension of time.	9-8
709	Mr. Fish to Admiral Polo ...	Dec. 2	Delay appears unavoidable, and will doubtless cease in a few hours; the President will then rely upon immediate execution of agreement.	9-9
710	do	Dec. 4	Is informed by General Sickles that powers have been sent to Admiral Polo; is prepared to execute the agreement, and asks him to name an hour to-day when he will meet Mr. Fish for that purpose.	9-9
711	Admiral Polo to Mr. Fish ...	Dec. 4	In reply to the last; his powers require him to act in conjunction with superior authorities of Cuba; has referred the subject to Madrid.	9-9
712	Agreement between Mr. Fish and Admiral Polo.	Dec. 8	As to time, place, and manner of surrender of vessel and survivors, and as to mode of rendering salute, if not dispensed with.	9-10

STEAMER VIRGINIUS—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
713	Admiral Polo to Mr. Fish...	1873. Dec. 10	Transmitting evidence in order to show that the <i>Virginias</i> , at the time of her capture, was not entitled to carry the flag of the United States: 1. Bill of sale of the <i>Solicitor of the Treasury</i> to John F. Patterson. 2. Oath of John F. Patterson that he is the true and only owner of the said vessel, and that there is no subject or citizen of any foreign prince or state, directly or indirectly, by way of trust, confidence, or otherwise, interested therein. 3. Bond on the issue of the certificate of registry. 4. Crew-list. 5. Clearance-bond. 6. Manifest of cargo. 7. Master's oath on clearance. 8. Manifest. 9. Deposition of Francis E. Shepperd. 10. Deposition of Francis Bowen. 11. Deposition of Francis Bowen. 12. Deposition of Charles Smith. 13. Deposition of Edward Greenwood. 14. Depositions of John McCaren and Matthew Murphey. 15. Deposition of Thomas Gallagher. 16. Deposition of Ambrose Rawling. 17. Deposition of John Furlong. 18. Deposition of Adolfo de Varona.	991
714	Mr. Fish to Admiral Polo...	Dec. 22	Acknowledging the receipt of 129; the inclosures make it appear to the satisfaction of the United States that <i>Virginias</i> was not entitled to carry flag at time of capture; salute will, therefore, be dispensed with, and, in accordance with terms of protocol, inquiries will be instituted and proceedings commenced against vessel and persons appearing to be guilty of illegal acts connected therewith.	1051
715	Admiral Polo to Mr. Fish...	1874. Jan. 3	Expresses on behalf of his government a disclaimer of an intent of indignity to the flag of the United States.	1052

III.—CONSULAR CORRESPONDENCE.

716	Mr. Hall to Mr. Fish..... (Telegram.)	1873. Nov. 5	Capture of the <i>Virginias</i>	1052
717	Mr. Fish to Mr. Hall..... (Telegram.)	Nov. 7	Instructing him to obtain full particulars.....	1053
718	Mr. Hall to Mr. Davis..... (Telegram.)	Nov. 5	Same subject.....	1053
719	.....do..... (Telegram.)	Nov. 5	Same subject; inclosing correspondence with captain-general and extracts from Cuban press.	1053
720	.....do.....	Nov. 7	Giving particulars and inclosing extracts from press and from letters of the vice-consul at Santiago.	1057
721	Mr. Hall to Mr. Fish..... (Telegram.)	Nov. 8	Ryan and three Cubans shot; telegraph with Santiago interrupted.	1061
722	Mr. Hall to Mr. Davis.....	Nov. 8	Inclosing copy of letter to captain-general claiming for American citizens the privileges of the treaty of 1795.	1061
723	.....do.....	Nov. 12	Inclosing correspondence between the consul at Santiago de Cuba and the Spanish authorities.	1062
724	Mr. Hall to Mr. Fish..... (Telegram.)	Nov. 13	Consul at Santiago did everything that could be done to secure rights under treaty.	1066
725	Mr. Hall to Mr. Davis.....	Nov. 14	Recapitulating telegrams; inclosing copy of note from captain-general.	1066
726	.....do.....	Nov. 14	Transmitting correspondence between the consul at Santiago and the Spanish authorities.	1067
727	Mr. Hall to Mr. Fish..... (Telegram.)	Nov. 12	Papers publish accounts of fifty-seven more executions.	1070
728	Mr. Fish to Mr. Hall..... (Telegram.)	Nov. 19	Directing him to ask of authorities confirmation or denial of reported massacre, and to report at earliest possible moment.	1070
729	.....do..... (Telegram.)	Nov. 12	Directing him to demand of authorities the most ample rights for all American citizens on the <i>Virginias</i> .	1071
730	Mr. Hall to Mr. Fish..... (Telegram.)	Nov. 15	Fully confirming the massacre.....	1071
730	Mr. Hall to Mr. Davis.....	Nov. 15	Correspondence between the Spanish commander in the eastern district and the British vice-consul at Santiago; crew-list of the <i>Virginias</i> .	1071
731	Mr. Nunes to Mr. Davis.....	Nov. 15	The <i>Virginias</i> cleared from Kingston for Port Limon, Costa Rica; steps taken by British authorities in Jamaica on receipt of news of her capture; the consul communicates with Captain Cushing; he incloses a number of telegrams and letters relating to the subject.	1073

CONSULAR CORRESPONDENCE—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1873.		
73	Mr. Hall to Mr. Fish (Telegram.)	Nov. 18	Total number of executions, fifty-three.....	1077
74	Mr. Hall to Mr. Davis	Nov. 22	Action of authorities at Santiago in placing a marine guard before the consulate.	1076
75	Mr. Hall to Mr. Fish	Nov. 22	Has demanded ample rights for American prisoners at Santiago; the captain-general denies his right to make such representations.	1079
76	Mr. Schmitt to Mr. Fish	Nov. 23	Inclosing Captain Fry's letter to the consul, and sworn declaration.	1079
77	do	Dec. 4	Incloses list of captured crew who were executed.	1081
78	Mr. Hall to Mr. Davis	Dec. 5	Excitement in Havana.....	1083
79	Mr. Hall to Mr. Fish	Dec. 13	Removal of prisoners from Santiago without authority, and their return; number of the prisoners; crew-list.	1090
80	Mr. Young to Mr. Fish	Dec. 18	Transmitting a list of the persons captured on the Virginias, and a list of those surrendered to the Junjata.	1095
81	Mr. Hall to Mr. Davis	Dec. 24	Transmitting telegrams respecting dispensing with the salute.	1068

IV.—MISCELLANEOUS CORRESPONDENCE.

72	Commander Cushing to Mr. Robeson.	Nov. 16	Came to Santiago on urgent telegrams from vice-consul, trials before a drum-head court-martial; fifty-three men summarily shot; executions on the authority of the general in command; incloses correspondence with General Burriel.	1098
73	Mr. Fish to Mr. Bliss	Nov. 23	Requesting him to be present at the examination of witnesses in New York.	1100
74	do (Telegram.)	Nov. 24	Repeating instructions by order of the President..	1101
75	do	Nov. 24	Inclosing depositions of Shepperd, Anderson, and Miller, relating to the Virginias, taken in May, 1872.	1101
76	Mr. Bliss to Mr. Fish	Nov. 24	Will attend the examination.....	1107
77	Mr. Fish to Mr. Robeson	Dec. 2	Returning Mr. Cushing's letter with thanks; hopes it will not be considered as committing the Government on many points advanced therein.	1107
78	do	Dec. 8	Inclosing copies of the agreement of this date with Admiral Polo, and requesting that instructions may be given for carrying it out.	1107
79	Mr. Fish to Mr. Williams	Dec. 11	Inclosing the evidence submitted by Admiral Polo to establish that the Virginias had no right to carry the flag of the United States, and saying that the President desires his opinion on the force of this evidence.	1108
80	do	Dec. 12	Inclosing the evidence of Anselmo Villareal and Garrasio Parru bearing on the same question.	1109
81	Mr. Williams to Mr. Fish	Dec. 17	Reviewing the evidence, and deciding that the Virginias at the time of her capture was without right and improperly carrying the American flag.	1113
82	Mr. Fish to Mr. Robeson	Dec. 17	Transmits opinion of the Attorney-General, and requests that steps may be taken to notify the proper officers at Santiago that the salute will be dispensed with.	1115
83	Mr. Fish to Mr. Williams	Dec. 22	Requests that steps may be taken to carry out the agreement made with Admiral Polo.	1116
84	Mr. Williams to Mr. Fish	Dec. 23	In reply to the last; the district attorney in New York has been instructed.	1117

SWEDEN AND NORWAY.

		1874.		
85	Mr. Stenersen to Mr. Fish	Mar. 25	Renewing request that the line of steamers between Norway and the United States be exempted from the same dues as Belgian steamers.	1117
86	Mr. Fish to Mr. Stenersen	Apr. 10	The question reverted to in Mr. Stenersen's note of March 25 will be again referred to the Secretary of the Treasury.	1118
87	Mr. Stenersen to Mr. Fish	June 22	Double pilotage exacted at New York from the captain of the Swedish steam-corvette Balder.	1119
88	Mr. Fish to Mr. Stenersen	Aug. 20	Pilots are, by the laws of the United States, regulated by the several States; the pilot-laws of the State of New York; reciprocity rests with the States.	1119
89	Mr. Cadwalader to Mr. Stenersen.	Oct. 13	The Secretary of the Treasury is prepared to admit the claim made on behalf of the Norse line of steamers respecting the exemption of dues.	1120

SPAIN.

No. 535.

General Sickles to Mr. Fish.

No. 782.]

UNITED STATES LEGATION IN SPAIN,
Madrid, October 27, 1873. (Received November 14.)

SIR: The official gazette of this date publishes the decree, a copy and translation of which are inclosed herewith, announcing the visit of the minister of ultramar to Cuba and Porto Rico. The preamble contains an interesting statement of the motives and objects of the mission, to which I beg to invite your attention.

I am, &c.,

D. E. SICKLES.

[Inclosure.—Translation.]

Decree of October 14, 1873, directing the colonial secretary to visit Cuba and Porto Rico. Published in "La Gaceta de Madrid," October 27, 1873.

PRESIDENCY OF THE EXECUTIVE POWER OF THE REPUBLIC.

Decree.

The firm resolution of the government of the republic to re-establish public order and peace in the peninsula is even more strongly held in so far as concerns those provinces whose remoteness from the mother-country calls for her greater solicitude and her first care.

The island of Cuba is perturbed by an insensate rebellion which seeks to menace the integrity of our territory, and which finds means of self-prolongation in the rigor of the climate and the nature of the country; and the action of the government toward it must needs be vigorous and decisive, in order to put an end at all costs to a struggle the continuance of which deprives the island of the blessings of peace, renders impossible the development of its resources, and is a constant obstacle to the inauguration of the reforms demanded alike by humanity and civilization.

Its financial situation is, moreover, grave; and the exhaustion of public credit and the increasing want of confidence, joined to the needs the treasury is in, to realize every possible source of income in order to put an end to such a state of things, make it indispensable that the finance department promptly present an organized plan which will yield the government resources whereby to pacify the island and at the same time give it the means whereby the charges imposed on the province may redound to its prosperity and good.

The problem of slavery no less urgently demands a speedy solution. The government hopes that this grave matter, so intimately related to the social and financial tranquillity of the island, will be settled by means of the concurrence and agreement of all; for the fact must not be forgotten that public opinion awaits with growing anxiety the day of abolition.

The republic, faithful to its principles, has given the widest latitude to the reforms which carried to Porto Rico the spirit of the revolution of September. Slavery there has disappeared; the first title of the constitution recognizes that the sons of that province enjoy the same rights as their brethren of the peninsula, and the government which aspires to the completion of its work needs due knowledge of the results of such transcendental innovations.

But for the realization of its purpose the executive power needs to form an accurate judgment without confining its attention to the diverse opinions of the enlightened consultative corporations and of the most worthy authorities of the Antilles; and therefore it has decided that the colonial minister shall visit those provinces, shall inform himself as to their necessities, and shall decide upon or prepare the proper measures to assure their peace and prosperity.

The government looks for such great results from this determination, that it has not

hesitated to accept the generous offer of one of its own members, resting assured that all those who love the name of Spain will see that, while progress demands certain reforms and public opinion exacts the fulfillment of certain promises, the republic holds nothing, absolutely nothing, superior to the integrity of the nation.

In view of these considerations, the government of the republic decrees as follows:

ARTICLE I. The colonial minister shall visit the island of Cuba with the object of studying the means of putting an end to the present insurrection therein, of bettering its financial situation, of preparing for the abolition of slavery, and of establishing the reforms needed in the government and administration of the province, adopting immediately, in so far as lies within his powers, the measures he may deem expedient for the attainment of those ends.

He shall also visit the island of Porto Rico, with the object of examining the results of the reforms introduced there, and also of deciding, conformably to the powers belonging to him, upon whatever he may judge proper for its administration and government.

ARTICLE II. The colonial minister shall be accompanied by those employés of his department whom he may designate, who shall receive such compensation as may be determined upon, conformably to existing regulations.

ARTICLE III. The expenses occasioned by compliance with the preceding articles shall be paid by and charged to the extraordinary war credit in Cuba.

ARTICLE IV. The colonial minister is hereby charged with the execution of this decree.

Madrid, October fourteenth, one thousand eight hundred and seventy-three.

The President of the executive power,

EMILIO CASTELAR.

No. 536.

General Sickles to Mr. Fish.

No. 784.]

UNITED STATES LEGATION IN SPAIN,
Madrid, October 27, 1873. (Received November 14.)

SIR: Among the noticeable features of the situation the condition of the Spanish finances is a circumstance not to be overlooked. The 3 per cent. consols of the foreign debt are quoted at twenty for a hundred. "Inscriptions in the great book of the consolidated debt," or interior rent, are sold at sixteen, or less. No interest on these funded obligations has been paid since December last. The coupons which matured in July, of this year, are only worth 43 per cent. Those of December, 1872, are at a discount of 49 per cent.

The last loan put on the market at twenty-eight, shortly before the abdication of Amadeo, was only in part taken up by public subscription. At present any further loans are deemed impossible. A negotiation has been for some time pending in London to raise twenty millions of dollars, at a high rate of interest, on the pledge of various securities, including scrip for a hundred and twenty-five millions of exterior consols, but so far it has not been successful.

A mass of liabilities, constituting what is called the "floating debt," and amounting to more than a hundred millions of dollars, consists in part of bills payable at fixed dates, secured by the hypothecation of valuables; these bills having matured and gone to protest, the Cortes compelled their removal and forbid the sale of the collaterals which were deposited in the Bank of Spain. This measure has compelled the government to go abroad for money, where special securities may be available in default of payment.

In truth, the public credit of this country is now lower than that of any other nation. It is nevertheless proposed to assume the payment of some fifty millions of dollars of the notes of the Bank of Havana, issued to the authorities in Cuba and disbursed by them during the past

five years, in addition to the enormous revenue raised from the island. You will remember that last year an attempt was made to fund this amount in 8 per cent. bonds issued on account of the Cuban treasury. A small sum was taken in Havana only, and the scheme was abandoned. Much alarm is felt here lest the financial crisis in Cuba, of which this large sum of irredeemable paper is the immediate cause, may yet more seriously hinder the government in its efforts to put down the insurrection. This, perhaps, is the real object of the journey of the colonial minister, who is preceded by a newly-appointed intendant of the treasury, Mr. Cancio Vilaamil, a former incumbent of the office, and said to be a competent person.

In order to raise the means for the prosecution of the wars in Spain, and to carry on the government, extraordinary imposts are levied, and the principal contributors in the provinces are compelled to subscribe to a loan reimbursable in taxes; or, in other words, to pay three or four years' taxes in advance. This measure naturally provokes complaint; yet if it has become impossible to borrow money elsewhere, and Spanish civil wars must be supported by cash drawn annually from the people, a remedy might be sooner found for the chronic disorders that afflict the country.

I am, &c.,

D. E. SICKLES.

No. 537.

General Sickles to Mr. Fish.

No. 739.]

UNITED STATES LEGATION IN SPAIN,
Madrid, October 30, 1873. (Received November 18.)

SIR: The colonial minister left Madrid last night to embark from Cadiz, day after to-morrow, for Cuba. The day before his departure he sent me a note, saying he would be glad to see me at the department. Availing myself of his polite invitation, I called on him at 4 in the afternoon of the 28th. His excellency said he had received from President Castelar a list of the pending embargo cases, and that this matter should have his careful attention immediately on his arrival at Havana. In reply to an inquiry from the minister, I stated concisely the history of the negotiations on this subject. I remarked that up to this time neither the plain provisions of the treaty of 1795, nor the repeated orders of his predecessors, nor even the decree of July 12, 1873, had been respected or obeyed by the authorities in Cuba. And I added that my last hope of a satisfactory adjustment of this very important question rested on the action he might now take on the spot.

Mr. Soler inquired whether I was informed of the very positive instructions he had sent to the captain-general some three weeks ago by order of the council of ministers. I answered that both President Castelar and Mr. Carvajal had kindly communicated to me the purport of them. Unfortunately, however, such orders had been given before without result, and I was not sanguine of any change for the better until his excellency's arrival should impress upon the various officials concerned a graver sense of responsibility to the home government. Mr. Soler said he was confident the instructions he had lately sent had not been disregarded. I intimated an apprehension, founded on a statement in the decree of the 15th instant, revoking the royal order of 1825, that the "laws of the Indies" might enable the captain-general to

exercise the same discretion he had heretofore used in suspending orders emanating from superior authority. The minister said there was no foundation for such a construction of the powers of that officer. It was true the "laws of the Indies" gave ample facilities to the captain-general in certain extraordinary cases, but the royal order of 1825 was altogether exceptional and unexampled in the omnipotent rule it constituted. Nothing like this was permitted in the ancient colonial code so long in force in Spanish America. I expressed my satisfaction on learning that no sufficient warrant remained to justify or excuse such instances of apparent disobedience as had heretofore marked the conduct of successive commanding officers in Cuba. And I observed that in my opinion Spanish dominion in Cuba was more seriously imperiled by the insubordination of prominent officials than from any other particular cause. It was difficult for us to comprehend how the government of an important province, without any rights of its own, could be directed from Madrid while the orders and decrees of the mother country were habitually set aside by agents whose arbitrary will was the only law of the place. The minister said it was precisely to inaugurate a better system of administration that he was about to visit Cuba. It was his purpose and wish to hear all parties and all classes, and to ascertain, if possible, whether some practicable means could be found to reconcile the conflicting elements which had so long disturbed the peace of the island and retarded the reforms the Spanish revolution of 1868 should have long ago extended to the Antilles.

I then asked his excellency whether he had received any communication from the State Department in regard to a note I addressed his colleague, Mr. Carvajal, on the 16th instant, on the subject of the customs-regulations in Cuba, in their relation to the fines and penalties imposed on foreign ships. Mr. Soler y Plá replying in the negative, I stated in general terms the questions at issue, and the series of representations already made in the matter. Intimating my surprise that a translation of my note had not been placed in his hands, as I had been assured would be done before his departure, his excellency gave me permission to send to him the following day a duplicate of my communication; which I have done, after again inviting the attention of Mr. Carvajal to the business.

In reply to a suggestion that you might, perhaps, have occasion to address the Spanish minister in Washington about some pending question in Cuba during his excellency's presence in the island, Mr. Soler y Plá desired me to say to you that he would be most happy if you would bring to his notice, through that channel, any matter of interest to the United States that might come within his powers.

I asked his excellency if he contemplated visiting the United States before his return. He said that he desired very much to do so, yet this would depend on circumstances he could not now forecast.

After some conversation on the results of emancipation in the United States and the importance of providing means for the education of the freed people in Cuba, I alluded to the financial crisis in the island and the means of improving its revenues by a more liberal commercial policy. I pointed out that the large exports of flour, grain, and meat, from the peninsula to European markets, proved that Spain was able to compete with the United States and Russia in agricultural production.

It followed, therefore, that the large advantages given to this class of Spanish products in Cuba was a monopoly from which a few traders profited to the prejudice of general interests; that these privileges were especially injurious to the Cuban revenues, burdensome to consumers,

and without benefit to the home producers; injurious to the island, because if the discriminating duties were removed or reduced, American flour, entering Cuban ports and paying a moderate duty, would yield a large sum annually to the treasury; burdensome to consumers, because the high discriminating duties excluded competition either in price or quality, and needlessly increased the cost of bread; and without advantage to the Spanish farmer, because he only received the market price in the peninsula, and this was regulated, not by the relatively inconsiderable consumption in Cuba, but by the average demand in Europe. I will not trouble you with a recital of other illustrations and arguments advanced, as the topic is, of course, a familiar one to the Department. Mr. Soler said he would give it attention, and hoped to have an opportunity of resuming the subject with me on his return.

Since the foregoing was written I have learned from the ministry of state that all the papers—including my note of the 16th instant and appendixes—touching the Cuban customs-regulations, were placed in the hands of the colonial minister a few hours before his departure.

My conference with Mr. Soler is mentioned to-day by the reactionary journals, and they point to the circumstance that it took place shortly before he left the capital, as if they did not relish my having, as it were, the last words with his excellency. In truth, these journals, and the influences they represent, earnestly opposed the mission until they found the purpose of the government could not be shaken, when they suddenly changed front and have since endeavored to surround the minister with associations favorable to existing interests and hostile to any change.

I am, &c.,

D. E. SICKLES.

No. 538.

General Sickles to Mr. Fish.

No. 802.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 7, 1873. (Received November 26.)

SIR: I have the honor to forward herewith annexed a copy of a communication, dated yesterday, addressed by me to the executive committee of the Spanish Abolition Society, conveying to them the reply of the President to their recent memorial, conformably to the tenor of your instruction No. 388, of the 10th ultimo.

I am, &c.,

D. E. SICKLES.

[Inclosure.]

General Sickles to the Spanish Abolition Society.

LEGATION OF THE UNITED STATES IN SPAIN,
Madrid, November 6, 1873.

GENTLEMEN: I have the honor to inform you that the memorial addressed by the Spanish Abolition Society to the President of the United States, having been transmitted by me to the Department of State, has been placed in the hands of the Executive.

The Secretary of State is directed by the President to say that two years ago he recommended Congress to legislate for the objects which the memorialists now desire to accomplish, and that he has seen nothing since then to induce him to change his

opinions; on the contrary, they have been strengthened by the course of events. While abstaining from interference with the domestic concerns of other powers, the contiguity of some of the possessions of Spain to the territory of the Union has made the continued tolerance of slavery in one of them an object of solicitude to the people of the United States, and, therefore, the President does not refrain from expressing the anxiety with which he awaits the action of the Spanish Cortes in emancipating the slaves in Cuba. Sympathizing in every effort to remove the blot and scourge of slavery from the face of the earth, and desiring to see this great evil and crime exterminated and denounced, the President hopes that for the attainment of these ends no proper exertions will be spared by the friends of freedom in Spain, where they must prove more potent and efficacious than they can be in the United States. In this noble work I am to assure you and your associates of the sympathies and good wishes of the President.

I am, &c.,

D. E. SICKLES.

To the Hon. Sr. D. FERNANDO DE CASTRO,
*President, and the Vice-Presidents and Members of
 the Executive Committee of the Spanish Abolition Society.*

No. 539.

General Sickles to Mr. Fish.

No. 918.]

UNITED STATES LEGATION IN SPAIN,
Madrid, December 15, 1873. (Received January 9, 1874.)

SIR: I have the honor to inclose herewith a copy and translation of the address of General Jovellar on taking possession of the government of Cuba last month. It will be observed that the past five years are described as a period of conciliation, to be superseded now by a policy of combat, announced in the name of the government of President Castelar. It is, besides, significantly intimated that all discussion of political questions must cease, since it weakens the Spanish party and helps the common enemy. The abolition of slavery is to be a theme of continued meditation and study, which the planters have, it seems, already initiated, so that in due time a solution of the problem may be found which will reconcile the interests of labor, the rights of property, and the maintenance of production. Thus re-assured, the slaveholders are told to dismiss all fears of ill-considered and extreme measures.

The platform of the new captain-general is accepted, as might be expected, with unqualified satisfaction by the organs of the "Casino Español." The views expressed on this subject in my Nos. 730 and 902 are confirmed by this official and public avowal of the representative of the Spanish republic in Cuba.

I am, &c.,

D. E. SICKLES.

[Inclosure.—Translation.]

Address of General Jovellar on taking possession of the captain-generalcy of Cuba, November 5, 1873.

GOVERNMENT OF THE CAPTAIN-GENERALCY OF THE
 EVER-FAITHFUL ISLAND OF CUBA.

Inhabitants of the ever-faithful Island of Cuba:

The executive power of the republic has been pleased to confide to me the military and political command of this island. I arrive here at a time when, after an experience of five years, devoted without any definite results, as yet, to the conciliation of the conflicting extremes of one of the most difficult situations that can afflict any

country, it has become evident, beyond a doubt, that it is expedient and even necessary to subordinate all other questions to one alone—to that of the war.

It matters not that the insurrection, vanquished by force and exhausted by time, has lost a great part of the importance it had at the outset, nor that our means of action are to-day far superior to those which, through an excess of self-confidence, we were at the commencement able to oppose to the rebellion. The bravery and constancy of the army, the zeal and vigilance of the navy, the energy and decision of the volunteers, are assured guarantees, in any case, for the success of a struggle which is only kept alive at present by the difficulty of penetrating to the lurking-places of the enemy. But while the fact remains that somewhere in the territory of the island a show of warfare is kept up, even though it be by wandering bands, heterogeneous in character and relatively few in number; while this fact serves to raise the hopes of unpatriotic Spaniards, and to force upon loyal Spaniards, not uneasiness, for their good judgment repels that, but the necessity of extraordinary sacrifices in their property and in their persons; while rural production, the main fount of our wealth, remains exposed in certain districts to devastation and conflagration; and while, in short, a pretext exists for gauging, by the false standard of its duration, the importance of a movement which in reality is already far gone in its decadence, there is nothing of so much interest and urgency for the public welfare and for the prestige and honor of the nation as the re-establishment of the normal status of the island.

My purpose is, therefore, to subordinate all else to this consideration within the bounds traced by the laws.

The immense majority of the island maintains its nationality with a patriotism worthy of the highest examples of history, and before this fact all difficulties disappear; because on the sacred altar of our country there is offered the spontaneous sacrifice of a truce to all political discussion, which ever tends to benefit the common enemy by weakening the cohesion of the great national party; because the payment of taxes and all other treasury-dues will go on with increasing exactitude, so that the resources we now more than ever need may not be impaired; and because all of us will lend the most efficacious aid to transform our administration into a zealous agent of all legitimate interests, as is demanded by the credit and honor of each and all of us. In this way the political and financial question, which has so deeply impressed, and even alarmed, public opinion, will have an easy, simple, and speedy solution.

Meantime, social reform, that exigency of the present epoch imposed by the course of modern opinion, may and should still continue to be the object of special meditation and conscientious study. And, notwithstanding the war, this reform has initiated and is carrying forward the truest representation of agricultural interests, to the end that in due time a solution may be reached in terms which shall conciliate the change of condition of the laboring classes, the rights of property, and the maintenance of production, the protection of which for the general good of the country is the mission of all governments. Consequently all apprehensions based upon the belief that hasty and extreme measures would be adopted ought to cease and confidence should be revived, for without it the restoration of the public credit is utterly impossible.

Presenting ourselves thus, strong through our unity, rich through administrative morality, and energetic through patriotism, the present war can inspire us with little fear, for it is not the expression of an equal power contending for the triumph of a cause, but the desperate hope of delirium, trusting for success to our dissensions; let us destroy this hope, and the war will be at an end.

Lastly, all of you may cherish the assurance that, complying with the instructions of the government of the nation, I shall be untiring in my efforts to bring about peace and public prosperity, to protect credit, and to punish fraud with a strong hand; that I shall, in fine, with the utmost zeal, take care that none of the great interests of the island suffer detriment while this command is held by—

Your governor and captain-general,

JOAQUIN JOVELLAR.

HAVANA, November 5, 1873.

No. 540.

General Sickles to Mr. Fish.

No. 930.] LEGATION OF THE UNITED STATES IN SPAIN,
 Madrid, December 20, 1873. (Received January 12, 1874.)

SIR: "La Discusion" of this date contains an authorized announcement of the provisions of the emancipation act the government proposes to

present to the Cortes at its second session in January next. The bases of the project are as follows:

1. All slaves in Cuba, whether held by individuals or by the government, will be free on and after the day of the publication of the act in the official gazette of Madrid.

2. The freedmen will be bound to labor for five years; three of which will be in the service of their present masters, and the remaining two years in the service of the same or other masters, or of the state.

3. The freedmen will be entitled to wages not less than the lowest rate paid to free laborers.

4. All contracts will be made under the direction of an official, who will be styled "Protector of the freedmen."

5. On and after the day of the publication of the emancipation act in the official gazette of Madrid the freedmen will be recognized as entitled to civil rights; and at the expiration of eight years they will become eligible to political privileges.

6. Regulations for the execution of the act will be formed in Madrid, and will become part of the law itself, taking effect at the same time as the statute.

Indemnity to the masters being impracticable, considering the crippled resources of Cuba and Spain, five years of compulsory labor, at minimum wages, are substituted as a means of ransom contributed by the slaves themselves. It may be presumed that this feature of the act will encounter serious opposition in the Cortes. And if an earnest representation were made in behalf of the United States, perhaps President Castelar would not seriously resist a disposition in the legislature to rid the measure of this odious clause.

In this relation I may remark that Mr. Labra, the accomplished and diligent deputy from Porto Rico, has just now published an elaborate and instructive work on emancipation, considered economically. I am indebted to the courtesy of the author for a copy of his essay, from which I translate the following passage, touching the results of emancipation in Porto Rico: "I declare," says Mr. Labra, "upon my honor, that the results of the abolition of slavery in Porto Rico have exceeded all my hopes. Labor has not been interrupted a single day. No instance of disorder has occurred; not even a dispute. The indemnity decreed by the Cortes was not realized, for reasons of which I do not choose to speak, but which are a fresh commendation of the principle of colonial autonomy. And I may add that this social reform has been followed, in an interval of only six months, by no less a political change than the extension to the inhabitants of Porto Rico of personal rights and universal suffrage, as well as the substitution of popular municipal government for the old town-councils created by royal order. I do not recall a more admirable example anywhere, and I challenge the pro-slavery party to produce one. Will they still presume to ask us to accept their discouraging predictions? Will they persist in questioning the foresight of the abolitionists?"

It will be remembered that the liberation bill for Porto Rico allowed the freedmen to choose their own employers and make their own bargains about wages, while the term of contracts was for three years only. Practically it was immediate emancipation, with a provision against vagrancy. The indemnity clause required the money to be raised in the island, and, for that reason, was by common consent left inoperative.

I am, &c.,

D. E. SICKLES.

No. 541.

[Telegram.]

MADRID, *January 3, 1874.*

President Castelar resigned his powers at half-past five this morning, Congress having rejected a proposition approving the conduct of the government during the parliamentary recess. While the Cortes were engaged in the election of his successor they were dispersed by troops of the garrison under the command of General Pavia, who holds possession of the building. The principal streets and public buildings are occupied by troops, and artillery commands the thoroughfares. A provisional government will probably be proclaimed to-day, with Marshal Serrano at its head. I shall not recognize this *coup d'état*, indicated in my previous dispatches, until ordered to do so.

SICKLES.

No. 542.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *January 3, 1874.*

This afternoon General Pavia convened a number of generals and citizens, and after consultation Marshal Serrano was designated to form a provisional government. He named General Zavala minister of war. It is expected other ministers will be announced to-night. Martial law is proclaimed. About ten thousand troops occupy the capital. The republican militia has been disarmed to-day. The last act of the Cortes was to dismiss General Pavia from command and order him tried by court-martial for rebellion. The minister of war of the late government was in the act of reading the decree when the troops under General Pavia took possession of the chamber.

SICKLES.

No. 543.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *January 4, 1874.*

Official Gazette this morning contains announcement of a ministry in which Marshal Serrano names himself president of the executive power of the Republic, and appoints Sagasta minister of state and of the treasury, Balaguer ultramar and public works, Garcia Ruiz interior and grace and justice, Admiral Topete minister of marine. Balagner, who is in charge of the colonies, held that office under Sagasta in seventy-one and two.

SICKLES.

No. 544.

General Sickles to Mr. Fish.

No. 950.]

UNITED STATES LEGATION IN SPAIN,
Madrid, January 6, 1874. (Received February 16.)

SIR: I have the honor to forward herewith a copy and translation of a decree dated 30th December ultimo, appointing a new commission to consider and report the modifications necessary to adapt the penal laws of Spain, and its code of procedure in criminal cases, to the colonies.

You will observe the statement in the preamble, that a similar commission was created in 1869, and continued until 1872, when it was dissolved without having made a report. On November 28, 1872, another commission was named, which in turn is now broken up without having done anything. The present board was practically disbanded four days after it was appointed, since the government by which it was created fell on the third of January.

In my No. 472, I reported the debate in the Cortes which resulted in the appointment of the second commission in November, 1872. A promise was then made by Mr. Martos, on behalf of the government, that the serious grievances shown to result from the existing legislation should be at once removed, and three months was accepted as a sufficient time for the labors of the commission.

Another illustration is here afforded of the unwillingness of Spain to do anything toward the amelioration of the condition of the colonies. Since the revolution of 1868, the governments of Prim, Serrano, Sagasta, Zorilla, Figueras, and Castelar, have all promised to reform the administration in Cuba; and yet it is, perhaps, not too much to affirm that the situation of the island to-day is worse than ever.

I am, &c.,

D. E. SICKLES.

[Inclosure.]

Decree of December 30, 1873, organizing a new commission to report a penal code for Cuba and Porto Rico.

[Translation from "La Gaceta de Madrid," January 2, 1874.]

EXECUTIVE POWER OF THE REPUBLIC.

*Ministry of Ultramar.**Preamble.*

The evident necessity of giving to the provinces of Cuba and Porto Rico a penal code which, based upon that in force in the peninsula, should be the exponent of modern progress in penal legislation and of the solicitude of the mother country for her ancient colonies, impelled the government of the nation to create, by the decree of September 10, 1869, a commission charged with proposing the necessary alterations in the penal code at that time in operation in the peninsula, in order to apply it to the provinces of *ultramar*; but, although the commission, composed of most worthy and zealous persons, commenced its labors, it did not terminate them, by reason of the absence of some of its members and the occupations of others, and for divers causes, which counseled the issue of the royal decree of November 20, 1872, by which the aforesaid commission was declared dissolved and another created in its place, composed of seven distinguished jurists, charged with proposing the modifications which they might deem advisable in the penal code of the peninsula in order to apply it to Cuba and Porto Rico within the fixed term of two months, at the expiration of which the commission would be dissolved.

Unfortunately, this new commission likewise failed to give the expected result, either by reason of the painful brevity of the time allotted or from causes analogous to those which sterilized the action of its predecessor.

In view of the limited success obtained by these attempts, and of the urgency of extending to the Spanish Antilles the indicated reform in their penal legislation, putting in operation, at the same time, a system of procedure more conformable to science, and which shall contain, as a greater guarantee of justice, the right of appeal from the judgments of the higher courts, (audiencias,) and also, while remedying the infractions of penal laws and proceedings, shall make uniform the interpretation of the same and facilitate their more exact application, the undersigned minister has been led to consider necessary the creation of a new commission composed of elements taken from the ministry under his charge, upon which he can directly and immediately exert his supervision and influence to hasten its labors, this being, doubtless, the most efficacious means of happily carrying out, in a brief time, the reforms which he has already indicated.

To this end the undersigned minister has the honor to propose to the government of the republic the approval of the following draught of a decree.

Madrid, December 30, 1873.

The minister of the colonies *ad interim*,

JOAQUIN GIL BERGES.

Decree.

The government of the republic, in a council of ministers, and at the instance of the colonial minister, decrees the following:

ARTICLE I. A commission is created, composed of the secretary-general of the colonial office as president, and of four officials, chiefs of bureaus and counselors in the same ministry, as voting members, in order that, in as short a time as possible, it shall propose the modifications it considers necessary to introduce into the existing penal code of the peninsula in order to set it in operation in the provinces of *ultramar*.

ART. II. The same commission shall also be charged with drawing up a bill of criminal procedure in harmony with the reforms effected in the peninsula during the last few years and compatible with the present organization of the colonial courts, in which shall be included the establishment of the right of appeal on issues of fact and of form from the final judgments of those courts.

Madrid, December thirtieth, one thousand eight hundred and seventy-three.

The President of the government of the republic,

EMILIO CASTELAR.

The colonial minister *ad interim*,

JOAQUIN GIL BERGES.

No. 545.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *January 8, 1874.*

Minister of the interior publishes a circular to the governors of the provinces announcing that the Executive will wait until tranquility is restored before ordering elections for another congress. Layard informs me that he is instructed to continue the unofficial relations before existing between England and Spain.

SICKLES.

No. 546.

General Sickles to Mr. Fish.

No. 961.]

UNITED STATES LEGATION IN SPAIN,
Madrid, *January 15, 1874.* (Received February 16.)

SIR: I have the honor to forward herewith a translation of a note from Mr. Sagasta, dated 5th instant, announcing the organization of an executive authority in place of the late government. On the receipt of your instruction by cable, yesterday, authorizing official relations with the minister of state, I addressed a reply to his excellency, a copy of which is annexed.

I am, &c.,

D. E. SICKLES.

[Inclosure 1 in No. 961.—Translation.]

Mr. P. Sagasta to General Sickles.

(Received January 6, 1874—7.20 p. m.)

MINISTRY OF STATE,

Madrid, January 5, 1874.

SIR: In consequence of the events which occurred in this capital on the morning of the 3d instant, and which you already know, the executive power of the republic has constituted itself in the following form: President, Don Francisco Serrano y Dominguez; minister of grace and justice, Don Christino Martos; of war, Don Juan Zuvala; of finance, Don José de Echegaray; of the navy, Don Juan Bautista Topete y Carballo; of the interior, Don Eugenio Garcia Ruiz; of public works, Don Tomas Maria Masquera; of the colonies, Don Victor Balaguer, and of state the undersigned.

The executive power reserves to itself a full explanation to the governments of friendly powers, of the causes which rendered necessary the resolution adopted by the superior military authority of Madrid, in view of the grave peril which menaced liberty and social order after the vote of censure passed by the Chamber against the policy of the ministry presided over by Mr. Castelar.

The general opinion of the country has welcomed with joy the act of salvation whereby our gallant army hastened opportunely to the defense of all the interests of society and of the country, without having to lament the slightest conflict between the military forces and the ever-sensible population of the capital.

In acquainting you with the formation of the executive power, I have the honor, as a member thereof, to offer you the assurances of my most distinguished consideration.

PRAXEDES MATEO SAGASTA.

THE MINISTER PLENIPOTENTIARY
Of the United States of America.

[Inclosure 2 in No. 961.]

General Sickles to Mr. Sagasta.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, January 14, 1874.

SIR: I have had the honor to receive from your excellency a note dated the fifth instant, announcing the present organization of the executive power of the Spanish republic. The communication has been made known by cable to my Government, in order that my action, in view of the events to which your excellency refers, may be guided by the instructions of the President.

In acknowledging the receipt of the information conveyed to me by your excellency I avail myself of the occasion to offer to your excellency assurances of my most distinguished consideration.

D. E. SICKLES.

His Excellency DON PRAXEDES MATEO SAGASTA, *Minister of State.*

No. 547.

General Sickles to Mr. Fish.

No. 963.]

UNITED STATES LEGATION IN SPAIN,
Madrid, January 15, 1874. (Received February 16.)

SIR: I have the honor to forward, herewith, a copy of an order of the minister of hacienda, dated 31st December, ultimo, suspending the collection of the tax on exports, some time since reduced from five to one per centum.

I have, also, the satisfaction to forward a copy of a decree published to-day, abolishing the tax definitely.

I am, &c.,

D. E. SICKLES.

[Inclosure 1 in No. 963.]

Circular Order of December 31, 1873, suspending the tax of one per cent. on exports.

[Translated from "La Gaceta de Madrid" of January 11, 1874.]

ILLUSTRIOUS SIR: The government of the republic has decided to suspend, until further orders, the collection of the extraordinary and temporary impost denominated *port and sea police dues* (*carga y policia naval*.) which decision has been communicated by telegraph to the provincial customs administrations.

By order of the aforesaid government, I inform you of this for the corresponding effects. May God guard you many years.

PEDREGAL,

The General Director of Customs.

MADRID, December 31, 1873.

[Inclosure 2 in No. 963.]

Decree of January 14, 1874, abolishing the export-tax called "Impuesta de carga y policia naval."

[Translated from "La Gaceta de Madrid" of January 15, 1874.]

MINISTRY OF FINANCE.

Decree.

The extraordinary war-impost, called that of "*carga y policia naval*," (port and marine police dues.) affects so many interests and trenches upon so many rights that it has been the object of reclamations, both from Spanish citizens and from foreign subjects. The government of the republic, which needs every recourse for the operations of the campaign, and which neither can nor should deprive itself of any source of revenue, however painful the sacrifice may be to those who pay the tax, finds itself, nevertheless, obliged to heed the sentiment of equity and the arguments of justice. It is evident that this impost, not yet collected, and, in fact, suspended by the very government that created it, is an obstacle to foreign commerce, augments the burdens that weigh on our mining industry, and is contrary to international treaties, without yielding any large return to the exchequer. As a war-tax, and therefore of a temporary character, it might have been justified, limiting it to merchandise exported under the Spanish flag by national producers; but in that case it would have acted adversely to our industry and our mercantile navy for the benefit of those of other countries.

The tax having been already reduced, and its collection not having yet been enforced in the custom-houses, the moment has come for its final suppression.

The government of the republic, in a council of ministers, and on the showing of the minister of finance, decrees the following:

Sole Article.—The temporary and extraordinary war-impost, denominated that of "*carga y policia naval*," is hereby suppressed.

Madrid, January fourteenth, one thousand eight hundred and seventy-four.

The President of the executive power of the republic,

FRANCISCO SERRANO.

The Minister of Finance,
JOSÉ ECHEGARAY.

No. 548.

General Sickles to Mr. Fish.

No. 972.]

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

SIR: I learn that, in consequence of information it had received, the Chinese government has appointed a commission to proceed to Cuba, and investigate the condition and treatment of the Chinamen held there in a sort of bondage, represented to be even worse than slavery, and

that, meanwhile, the further migration of these people to Cuba has been prohibited. It appears that the commission includes, besides a mandarin, an American and a Frenchman employed in the Chinese administration. These appointments, and especially that of the American, are regarded as offensive to Spanish dignity, and loud protests have come from Cuba against what is called an American intrigue to deprive the planters of Chinese laborers by means of an unfavorable report to be made by the investigating committee. I have reason to believe that this government, through its representative at Peking, has remonstrated against the appointment of any other than native Chinese officials as members of the commission, and that Spain proposes to insist upon the removal of the restrictions imposed by China on the coolie-trade with the Spanish possessions in America.

I am, &c.,

D. E. SICKLES.

No. 549.

General Sickles to Mr. Fish.

No. 973.]

UNITED STATES LEGATION IN SPAIN,
Madrid, February 3, 1874. (Received March 20.)

SIR: I have the honor to forward herewith a copy and translation of a decree declaring the northern coast of Spain, from Cape de Peñas to Fuenterrabia, in a state of blockade. The ports of Gijon, Santander, and San Sebastian are excepted. The blockade includes some two hundred and fifty miles of coast.

It will be observed that the blockade is declared effective from the twentieth instant; that vessels bound for the open ports of Gijon, Santander, and San Sebastian are liable to search and detention, and to certain penalties denounced in the blockade regulations prescribed for the Spanish Pacific squadron November 26, 1864, and that no information is given as to what will be deemed "contraband of war." With reference to the rules of the Peruvian blockade of 1864, Mr. Layard informs me he applied at the state department for a copy of them, but they could not be found.

It seems, according to Article V, that the necessary war-vessels are ordered to the coast to make the blockade effective; but one may perhaps venture to intimate a doubt whether, considering the resources of the Spanish navy, the execution of these orders is practicable.

Under all the circumstances, it is not likely that the European powers will suffer the rich commerce of the Bay of Biscay to be subjected to annoyance and interruption by a blockade of this character.

I am, &c.,

D. E. SICKLES.

[Inclosure.]

Decree of January 31, 1874, declaring the Biscayan ports of Spain in a state of blockade.

[Translated from "La Gaceta de Madrid," February 2, 1874.]

PREAMBLE.

Among the highest duties imposed upon the present government of the republic by public opinion, by the spontaneous and energetic act from which it sprung, by its own

nature, in short, and by its own decorum, stands principally and preeminently the duty of closing this period of bloody although barren strife, of profound perturbations, of unheard-of calamities, which ever carry in their train intestine discords, and which have engulfed our generous and high-toned Spain in the deep ocean of sorrows and misfortunes.

Two armed rebellions menaced our unhappy country when the government took upon itself the rude and, now more than ever, unbearable charge of administering and directing public affairs. In Cartagena floated the banner of demagogy, and in the north waved the standard of numerous hosts which, reviving, thanks to the hazard of circumstances, and unrealizable ideal, have not shrunk from ravaging those fertile provinces, paralyzing their commerce, giving their picturesque homesteads to the flames, and sowing, in a word, death and desolation as indelible foot-prints of their path, if not with the hope of triumph at least with the aim of heaping greater calamities upon the shattered soil of their country.

Of these two insurrections one has succumbed. The organization of the actual government was in itself sufficient to wound it to the death. It is now time to re-unite and concentrate the active forces of the country to hurl them, unanimous and compact, upon the battle-fields of the north, for we can do no less than that which our fathers did.

But the indomitable valor of our tried forces by land and sea is not enough to accomplish this, or rather it is needful that the energy and rapidity of their irresistible onset be vigorously complemented and efficaciously aided by the impossibility of the enemy's receiving assistance from foreign shores by means of those speculators who, setting at naught the vigilance and good faith of their respective governments, set the bait of a miserable profit above the universal duties of humanity and of public law. It is indispensable, in a word, if the action of the government is to be effective and energetic, to close for a time our Cantabrian shores to foreign commerce and prohibit access thereto, not only to foreign vessels but also to the natives themselves bound to the ports or navigating in the waters of that coast, without the requisites and guarantees established for that purpose.

Nothing better satisfies this pressing necessity than the declaration of a state of blockade of the coast in question, especially when the government possesses the naval force sufficient to make it real and effective, as is demanded by the present practice of the nations of Europe and the precepts of international law; to which may be further added that this measure, founded upon the first of all rights—the right of self-preservation, the synthesis of the sovereignty and the independence of the nation—can give rise to no ulterior réclamation on the part of those which recognize and admit these primordial principles, adapting themselves, as Spain also will adapt herself in their application, to the generally received international jurisprudence.

Resting upon these considerations, the undersigned minister has the honor to present to the government the following draft of a decree.

JUAN BAUTISTA TOPETE.

MADRID, *January 31, 1874.*

Decree.

The government of the republic, in a council of ministers, decrees:

ARTICLE I. The coast of Cantabria, from Cape de Peñas to Fuenterrabia, is declared in a state of blockade, with the sole exception of the ports of Gijon, Santander, and San Sebastian.

ART. II. The government shall promulgate the rules to be observed by Spanish vessels bound to the ports of Gijon, Santander, and San Sebastian from the ports of Spain or of foreign countries, with cargoes of lawful commerce, in which there shall be no goods contraband of war, in order that they be not molested by the blockading forces.

ART. III. Foreign vessels bound under like conditions of lawful trade to the ports enumerated, and observing the same rules as Spanish vessels, shall likewise not be molested by the blockading ships if such requisites are borne out by the search to which they are subject, (*el reconocimiento que practiquen.*)

ART. IV. The vessels which contravene these rules shall be detained, and shall be subject to the penalties established by maritime law and universally recognized in such cases, and by the blockade regulations prescribed for the Pacific squadron November 26, 1864.

ART. V. In order to maintain the effectiveness of the blockade within the limits designated in Article I, the necessary war-vessels are hereby ordered to that coast.

ART. VI. The minister of state shall communicate the present decree to the ambassadors, ministers, and consular agents of Spain in foreign countries, in order that, the

proper publicity being given, ignorance thereof may not be alleged, notifying them that it is to go into operation from the 20th day of February next.

ART. VII. The minister of marine shall issue the necessary orders and instructions, in order that this decree have exact and due fulfillment.

Madrid, January 31, 1874.

The President of the executive power of the republic,

FRANCISCO SERRANO.

The minister of marine,

JUAN BACTISTA TOPETE.

No. 550.

Mr. Fish to Mr. Cushing.

No. 2.]

DEPARTMENT OF STATE,

Washington, February 6, 1874.

SIR: Whatever general instructions you may need at the present time for your guidance in representing this Government at Madrid have reference entirely to the actual state of the island of Cuba and its relation to the United States as well as to Spain.

It is now more than five years since an organized body of the inhabitants of that island assembled at Yara, issued a declaration of independence, and took up arms to maintain the declaration. The movement rapidly spread, so as to occupy extensive regions of the eastern and central portions of the island, and all the resources of the Spanish government have been exerted ineffectually to suppress the revolution and reclaim the districts in insurrection to the authority of Spain. The prosecution of the war on both sides has given rise to many questions, seriously affecting the interests and the honor of the United States, which have become the subject of diplomatic discussion between this Government and that of Spain.

You will receive herewith a selection, in chronological order, of the numerous dispatches in this relation which have passed between the two Governments. From these documents you will derive ample information, not only respecting special questions, which have arisen from time to time, but also respecting the general purposes and policy of the President in the premises.

Those purposes and that policy, as indicated in the accompanying documents, have continued to be substantially the same during the whole period of these events, except in so far as they may have been modified by special circumstances, seeming to impart greater or less prominence to the various aspects of the general question, and thus, without producing any change of principle, yet, according to the particular emergency, to direct the action of the United States.

It will suffice, therefore, on the present occasion, first, briefly to state these general views of the President; and, secondly, to show their application to the several incidents of this desperate struggle on the part of the Cubans to acquire independence, and of Spain to maintain her sovereignty, in so far as those incidents have immediately affected the United States.

Cuba is the largest insular possession still retained by any European power in America. It is almost contiguous to the United States. It is pre-eminently fertile in the production of objects of commerce which are of constant demand in this country, and, with just regulations for reciprocal interchange of commodities, it would afford a large and lucrative market for the productions of this country. Commercially, as well as

geographically, it is by nature more closely connected with the United States than with Spain.

Civil dissensions in Cuba, and especially sanguinary hostilities, such as are now raging there, produce effects in the United States second in gravity only to those which they produce in Spain.

Meanwhile our political relation to Cuba is altogether anomalous, seeing that for any injury done to the United States or their citizens in Cuba we have no direct means of redress there, and can obtain it only by slow and circuitous action by way of Madrid. The captain-general of Cuba has, in effect, by the laws of Spain, supreme and absolute authority there for all purposes of wrong to our citizens; but this Government has no adequate means of demanding immediate reparation of such wrongs on the spot, except through a consul, who does not possess diplomatic character, and to whose representations, therefore, the captain-general may, if he choose, absolutely refuse to listen. And, grievous as this inconvenience is to the United States in ordinary times, it is more intolerable now, seeing that, as abundantly appears, the contest in Cuba is between peninsular Spaniards on the one hand and native-born Spanish-Americans on the other; the former being the real representatives of Spanish force in Cuba, and exerting that force when they choose, with little, if any, respect for the metropolitan power of Spain. The captain-general is efficient to injure, but not to redress, and, if disposed to redress, he may be hampered, if not prevented, by resolute opposition on the part of the Spaniards around him, disobedient alike to him and to the supreme government.

In fine, Cuba, like the former continental colonies of Spain in America, ought to belong to the great family of American republics, with political forms and public policy of their own, and attached to Europe by no ties, save those of international amity, and of intellectual, commercial, and social intercourse. The desire of independence on the part of the Cubans is a natural and legitimate aspiration of theirs, because they are Americans. And while such independence is the manifest exigency of the political interests of the Cubans themselves, it is equally so that of the rest of America, including the United States.

That the ultimate issue of events in Cuba will be its independence, however that issue may be produced, whether by means of negotiation, or as the result of military operations, or of one of those unexpected incidents which so frequently determine the fate of nations, it is impossible to doubt. If there be one lesson in history more cogent in its teachings than any other, it is that no part of America, large enough to constitute a self-sustaining state, can be permanently held in forced colonial subjection to Europe. Complete separation between the metropolis and its colony may be postponed by the former conceding to the latter a greater or less degree of local autonomy, nearly approaching to independence. But in all cases where a positive antagonism has come to exist between the mother country and its colonial subjects, where the sense of oppression is strongly felt by the latter, and especially where years of relentless warfare have alienated the parties, one from another, more widely than they are sundered by the ocean itself, their political separation is inevitable. It is one of those conclusions which have been aptly called the inexorable logic of events.

Entertaining these views, the President at an early day tendered to the Spanish government the good offices of the United States for the purpose of effecting by negotiation the peaceful separation of Cuba from Spain, and thus putting a stop to the further effusion of blood in the island, and relieving both Cuba and Spain from the calamities and

charges of a protracted civil war, and of delivering the United States from the constant hazard of inconvenient complications on the side either of Spain or of Cuba. But the well-intended proffers of the United States on that occasion were unwisely rejected by Spain, and, as it was then already foreseen, the struggle has continued in Cuba with incidents of desperate tenacity on the part of the Cubans, and of angry fierceness on the part of the Spaniards, unparalleled in the annals of modern warfare.

True it is that now, when the war has raged for more than five years, there is no material change in the military situation. The Cubans continue to occupy, unsubdued, the eastern and central parts of the island, with exception of the larger cities or towns, and of fortified points held by the government, but their capacity of resistance appears to be undiminished, and with no abatement of their resolution to persevere to the end in repelling the domination of Spain.

Meanwhile this condition of things grows, day by day, more and more insupportable to the United States. The Government is compelled to exert constantly the utmost vigilance to prevent infringement of our law on the part of Cubans purchasing munitions or materials of war, or laboring to fit out military expeditions in our ports; we are constrained to maintain a large naval force to prevent violations of our sovereignty, either by the Cubans or the Spaniards; our people are horrified and agitated by the spectacle, at our very doors, of war, not only with all its ordinary attendants of devastation and carnage, but with accompaniments of barbarous shooting of prisoners of war, or their summary execution by military commissions, to the scandal and disgrace of the age; we are under the necessity of interposing continually for the protection of our citizens against wrongful acts of the local authorities of Spain in Cuba; and the public peace is every moment subject to be interrupted by some unforeseen event, like that which recently occurred, to drive us at once to the brink of war with Spain. In short, the state of Cuba is the one great cause of perpetual solicitude in the foreign relations of the United States.

While the attention of this Government is fixed on Cuba, in the interest of humanity, by the horrors of civil war prevailing there, we cannot forbear to reflect, as well in the interest of humanity as in other relations, that the existence of slave-labor in Cuba, and its influence over the feelings and interests of the peninsular Spaniards, lie at the foundation of all the calamities which now afflict the island. Except in Brazil and in Cuba, servitude has almost disappeared from the world. Not in the Spanish-American republics alone, nor in the British possessions, nor in the United States, nor in Russia—not in those countries alone, but even in Asia, and in Africa herself—the bonds of the slave have been struck off, and personal freedom is the all but universal rule and public law, at least to the nations of Christendom. It cannot long continue in Cuba environed as that island is by communities of emancipated slaves in the other West India Islands and in the United States.

Whether it shall be put an end to by the voluntary act of the Spanish government, by domestic violence, or by the success of the revolution of Yara, or by what other possible means, is one of the grave problems of the situation, of hardly less interest to the United States than the independence of Cuba.

The President has not been without hope that all these questions might be settled by the spontaneous act of Spain herself, she being more deeply interested in that settlement than all the rest of the world. It seemed for a while that such a solution was at hand, during the time

when the government of Spain was administered by one of the greatest and wisest of the statesmen of that country, or indeed of Europe, President Castelar. Before attaining power, he had announced a line of policy applicable to Cuba, which, though falling short of the concession of absolute independence, yet was of a nature to command the approbation of the United States.

"Let us," he declared, on a memorable occasion, "let us reduce to formulas our policy in America.

"First, *the immediate abolition of slavery.*

"Secondly, autonomy of the islands of Puerto Rico and Cuba, which shall have a parliamentary assembly of their own, their own administration, their own government, and a federal tie to unite them with Spain, as Canada is united with England, in order that we may found the liberty of those states and at the same time conserve the national integrity. I desire that the islands of Cuba and Puerto Rico shall be our sisters, and I do not desire that they shall be transatlantic Polands."

I repeat, that to such a line of policy as this, especially as it relates to Cuba, the United States would make no objection; nay, they could accord to it hearty co-operation and support, as the next best thing to the absolute independence of Cuba.

Of course, the United States would prefer to see all that remains of colonial America pass from that condition to the condition of absolute independence of Europe.

But we might well accept such a solution of present questions as, while terminating the cruel war which now desolates the island and disturbs our political intercourse, should primarily and at the outset abolish the iniquitous institution of slavery, and, in the second place, should place Cuba practically in the possession of herself by means of political institutions of self-government, and enable her, while nominally subject to Spain, yet to cease to be the victim of Spanish colonial interests, and to be capable of direct and immediate relations of interests and intercourse with the other states of America.

* * * * *

In these circumstances, the question what decision the United States shall take is a serious and difficult one, not to be determined without careful consideration of its complex elements of domestic and foreign policy, but the determination of which may at any moment be forced upon us by occurrences either in Spain or in Cuba.

Withal the President cannot but regard *independence*, and emancipation, of course, as the only certain, and even the necessary, solution of the question of Cuba. And, in his mind, all incidental questions are quite subordinate to those, the larger objects of the United States in this respect.

It requires to be borne in mind that, in so far as we may contribute to the solution of these questions, this Government is not actuated by any selfish or interested motive. The President does not meditate or desire the annexation of Cuba to the United States, but its elevation into an independent republic of freemen, in harmony with ourselves and with the other republics of America.

You will understand, therefore, that the policy of the United States in reference to Cuba at the present time is one of expectancy, but with positive and fixed convictions as to the duty of the United States when the time or emergency of action shall arrive. When it shall arrive, you will receive specific instructions what to do. Meantime, instructed as you now are as to the intimate purposes of the Government, you are to act in conformity therewith in the absence of any specific instructions,

and to comport yourself accordingly in all your communications and intercourse, official or unofficial, with persons or public men in Spain.

In conclusion, it remains to be said that, in accordance with the established policy of the United States in such cases, as exemplified in the many changes of government in France during the last eighty years, and in the Mexican Republic since the time of its first recognition by us, and in other cases which have occurred in Europe and America, you will present your credentials to the persons or authorities whom you may find in the actual exercise of the executive power of Spain.

The President has not, as yet, received any official notice of the termination of the authority of President Castelar and the accession of President Serrano, and of course we have no precise information as to the intention or views of the new executive of the Spanish Republic.

While we cannot expect from him any more hearty friendship for the United States than his predecessor entertained, it is to be hoped that he may not be moved by any unfriendly sentiments toward us. If, however, such should, unhappily, prove to be the case, it would be all the more necessary that you should be vigilantly watchful to detect and report any signs of possible action in Spain to the prejudice of the United States.

I am, &c.,

HAMILTON FISH. .

No. 551.

Mr. Fish to Mr. Cushing.

No. 3.]

DEPARTMENT OF STATE,
Washington, February 6, 1874.

SIR: The attention of this Government has been frequently called by citizens of the United States to the wrong done them in the embargo of their property by the colonial authorities of Cuba for alleged disloyalty, in virtue of a decree of April 20, 1869. Their estates have been seized by arbitrary executive act, without judicial hearing or judgment, and in manifest violation of the provisions of the treaty of 1795. In many instances the seizure has been made with such improvidence and want of consideration, that the property of one person has been seized for the alleged offense of another. Promises were made, from time to time, to release some of these estates, which promises were evaded or deferred for insufficient reasons. In some cases, after promise had been given to disembargo the property, it was leased to strangers for a series of years, so as to render the order of disembargo ineffectual, and to continue to deprive the owner of the possession and use of his property.

Of course, no relief in the premises could be obtained by the action of the mixed commission sitting at Washington, and this Department continually insisted that the property itself should be restored to the owners by the same executive authority which made the seizure, leaving only the question of resulting damages to the consideration of the commission.

You are referred to the frequent and earnest instructions to your predecessor with regard to these cases. After various repeated and urgent remonstrances, the late government of Spain, on the 12th of July, 1873, on the recommendation of the minister of the colonies, setting forth the illegality of these acts of sequestration, their injustice to the parties interested, and their injuriousness even to the public interests, all em-

bargoes put upon the property of alleged disloyal persons in Cuba were declared removed from the date when the decree should reach the capital; it was ordered that all property disembargoed should be forthwith delivered up to its owners or their legal representatives; and a commission was appointed to hear and decide summarily upon all such applications as might be made by the interested parties.

Notwithstanding the imperative character of this decree, no regard was paid to it in Cuba for a length of time; it was not officially published there, and the authorities at Havana even proceeded to advertise for sale embargoed property belonging to citizens of the United States. These instances led to further remonstrances on the part of the United States.

At length, contemporaneously with the official visit of Señor Soler y Pla, minister of ultramar, to Cuba, partial execution was given to the decree of July 12, 1873, in so far as it applied to several of the parties named in a list communicated to the Spanish government by this Department.

It is now learned that in the case of some of the estates covered by that decree, and ordered by the commission to be delivered to the owners, delivery is obstructed on the allegation that the estates are subject to leases to third parties for a series of years, by which the owners are not only deprived of the actual possession of their property and of the income which it would yield in their hands, but the property itself is undergoing waste and depreciation.

The leases which are thus interposed as a justification for continuing to disregard the decree of the home government and the assurances given to this Government, and in continued violation of the rights of our citizens, are understood to be leases given by some pretended authority subsequent to the act of embargo.

In some cases, (that of Ramon Fernandez Criado y Gomez, for instance,) it appears that the authorities claim that the property was under judicial embargo and finally confiscated.

The chronological series of papers which accompany my No. 2, of even date with this, contains copies of the correspondence, telegraphic and otherwise, on this subject between this Department and its agents and the Spanish authorities. On examining it, you will find that the Spanish government has practically admitted that the seizure and retention of these estates was a violation of the rights of the proprietors.

You will therefore make it your first duty after your credentials are presented in Madrid, to represent to the government there, courteously but firmly, that the President expects to see the estates of American citizens which have been seized in Cuba in violation of the provisions of the treaty of 1795, whether by embargo or by confiscation, restored to them without further delay, and without any incumbrance imposed by Spanish authority in Cuba.

He does not question the willingness of the authorities at Madrid to comply with these expectations. It will be your duty, while giving assurances of our convictions of the good will of the Spanish government in this respect, to leave no doubt of our expectations that it will find means to compel its insubordinate agents in Cuba to carry into execution its agreements with this Government respecting these estates.

I am, &c.,

HAMILTON FISH.

No. 552.

Mr. Adee to Mr. Fish.

No. 176.]

UNITED STATES LEGATION IN SPAIN,
Madrid, February 10, 1874. (Received March 20.)

SIR: Referring to General Sickles' dispatch No. 973, in relation to the blockade of the northern coast of Spain, I have the honor to forward herewith a copy of the regulations for the Peruvian blockade of 1864, received to-day from Mr. Sagasta in response to my request to be furnished therewith. It will be remarked that these rules are framed with reference to the exercise of all the belligerent rights growing out of a recognized state of war between contending powers. It is extremely doubtful whether they will be insisted upon. I understand, through Mr. Layard, that Mr. Sagasta expressed the utmost surprise at the latitude given to the decree of January 31, by the inclusion of these regulations, and stated that the measure had been adopted without his knowledge.

I am, &c.,

A. AUGUSTUS ADEE.

MINISTRY OF STATE.

Regulations concerning the blockading of ports held by the enemy and the capture of hostile or suspicious vessels.

MINISTRY OF MARINE—DIRECTION OF ARMAMENTS.—MINISTRY OF STATE—DIRECTION OF POLITICAL AFFAIRS.

ARTICLE 1. A port held by the enemy is considered blockaded when its entrance is guarded by a number of vessels sufficient to render the passage dangerous.

ART. 2. Inasmuch as the blockade must be effective and constant in order to be considered valid, therefore, if storms or other circumstances drive or remove the blockading vessels from the entrance of the blockaded port, such neutral vessels as may enter or sail out during their absence shall not be considered to have violated the blockade.

ART. 3. A blockade shall not be considered fully in force until after notice shall have been given by the commander of the blockading squadron to the consuls of neutral powers, by means of a circular, summoning them to name, without delay, such time as they may deem necessary, at the expiration of which vessels belonging to their respective nations are to leave the port; and if the time fixed by them shall seem admissible, he shall so inform them, allowing free passage to such vessels during the time granted.

Information of the establishment of a blockade is also to be communicated to the government of Her Majesty, to the end that it may give due notice, diplomatically, to the governments of all neutral nations.

ART. 4. Even after the publication of this notice, the existence of the blockade is not to be considered as known to any vessel that may be bound to the blockaded port until after the delivery to it of the special notification, which is to be placed among the papers of such vessel by the commander of the war-vessel that may be designated for the purpose.

ART. 5. After the delivery of the special notification, any attempt to enter the port constitutes a violation of the blockade, and the vessel having made such an attempt is a lawful prize.

ART. 6. If a vessel which has been specially notified shall attempt to run the blockade, it shall be captured under any of the circumstances specified below:

1st. If it shall be surprised in the act of passing the line of the blockading vessels.

2d. If, having attempted to do so, it shall be pursued by one of the blockading vessels, said vessel not losing sight of it; for, if this condition be wanting, or if the pursued vessel shall enter a neutral port, it shall be free.

3d. If, after having passed the line, it shall attempt to sail out of the port, or to run the blockade again.

ART. 7. If a neutral vessel shall appear in the vicinity of the blockaded port, or

shall attempt to pass the line in the face of the fire of the blockading vessels, the shots fired shall be considered equivalent to the special notification, and the vessel may be captured.

ART. 8. If a neutral vessel of war shall attempt to run the blockade, after having been informed of its existence, it shall be driven back by force, being responsible for the consequences of its aggressive act.

ART. 9. If a vessel which is forced to seek a port in consequence of stress of weather, lack of provisions, &c., shall appear in the vicinity of the blockaded port, it may be allowed to enter, on furnishing proper evidence of the existence of the causes aforesaid. But if it shall have articles which are contraband of war on board, it must deposit such articles on board of one or more of the blockading vessels before entering the port, or pledge itself to keep them on board until its departure.

ART. 10. Under the designation *contraband of war* are comprised cannons, mortars, muskets, and arms of all kinds; bomb-shells, hand-grenades, balls, percussion-caps, fuses, powder, and saltpetre; articles of equipment, such as uniforms, straps, belts, saddles and bridles, and, in general, all instruments or articles manufactured for purposes of war.

ART. 11. The court which is to pronounce sentence in prize cases shall sit at —.

ART. 12. In case of a Spanish vessel being in danger, or being captured by the enemy, aid must be lent to it, and every possible effort made to recapture it, although such recapture shall give no right to the captured vessel. If such recapture shall have been made from a neutral vessel, it shall be considered as hostile in case of having remained in possession of the latter for more than twenty-four hours, unless there be special circumstances, the determination of which is reserved for Her Majesty.

ART. 13. Outside of the line of the blockade, and although no effort be made to run it, it is allowable to capture vessels belonging to the hostile state or to its citizens, together with all the property belonging to enemies which may be found on board, whenever a declaration of war has preceded the act of capture. The portion of neutral cargo that may be carried by such hostile vessels shall be free, provided it do not consist of contraband of war.

ART. 14. Under similar circumstances, any neutral vessel carrying goods contraband of war, official dispatches, troops, or seamen, to the enemy or for his account, shall be detained and captured; but if contraband goods do not constitute more than half of the cargo, the contraband articles only shall be confiscated, the remainder of the cargo, together with the vessel, remaining free.

ART. 15. Vessels whose neutrality is not shown by proper papers shall also be captured.

ART. 16. Vessels carrying double sets of papers, or such as appear fraudulent, shall be considered suspicious, and shall be searched. Also such as have not the papers required by the laws of the country to which they belong, and such as shall not heave to, when summoned to do so by the cruiser, or shall refuse to permit an examination of the compartments in which it is supposed that there is contraband of war, such suspicious vessels shall be treated as hostile vessels, unless the suspicion attaching to them shall be removed.

ART. 17. Neutral merchant-vessels, convoyed by a neutral vessel of war, shall not be searched. It shall be considered that they carry no contraband of war if the commander of the convoy shall so declare.

ART. 18. There shall be a copy of these regulations on board of each vessel belonging to the Pacific squadron.

MADRID, November 25th, 1864.

A correct copy :

GULLON.

No. 553.

Mr. Adee to Mr. Fish.

No. 180.]

UNITED STATES LEGATION IN SPAIN,
Madrid, February 24, 1874. (Received March 27.)

SIR: I have the honor to forward herewith a copy and translation of a decree dated the 19th instant, and published in the "Gaceta" of the 20th, extending, until the 5th of March next, the time fixed for the enforcement of the decree of January 31, declaring the northern coast of Spain, from Cape de Peñas to Fuenterrabia, in a state of blockade.

The proclamation of the blockade, as at first promulgated, was met

by energetic protests from the foreign powers whose Biscayan commerce would suffer interruption and hinderance by the sweeping measure proposed. These remonstrances acquired additional force in view of the grave international questions which might have arisen had the Peruvian blockade regulations of 1864 been applied in the present instance without modification, as seems to have been somewhat improvidently contemplated. The inconveniences likely to be entailed by such a course led to its essential modification, and fresh regulations were subsequently published for the guidance of the naval commander of the forces on the blockaded coast, and for the consular officers of Spain in foreign countries. Copies and translations of these, in the form of an order of the minister of marine, and of a communication from that officer to the minister of state, will be found appended hereto. These regulations, although changing to some extent the character of the proposed blockade and relieving it of the unqualified belligerent rights before assumed to exist, still failed to remove the weighty objections raised by foreign governments. Their representatives here pointed out the serious incongruities that remained. An extended line of coast was closed to commerce, while certain of its ports remained open under embarrassing restrictions. Ports not occupied by the Carlist insurgents, or even likely to be menaced by them, were blockaded. And the available naval force of Spain was inadequate to maintain an effective surveillance over two hundred miles of tempestuous coast, especially when the spring storms would constrain the blockading vessels to take frequent shelter in the widely separated harbors wherein safe anchorage could be found. The French government indeed gave official publication to the regulations of February 11, but under certain reservations.

Under these circumstances, the government of Marshal Serrano has determined to, at least partially, relinquish its contemplated purpose. As a preliminary step, the blockade is postponed until the 5th of March proximo, ostensibly for the purpose of giving time for an extended consideration of the whole subject with a view to adopting a definitive resolution which shall harmonize the many conflicting interests concerned. This is looked upon as merely a prelude to the final abandonment of the scheme.

I am, &c.,

A. AUGUSTUS ADEE.

[Inclosure 1 in No. 180.]

Decree of February 19, 1874, extending the time for the enforcement of the blockade of the Biscayan coast to March 5, 1874.

[Translated from "La Gaceta de Madrid," February 20, 1874.]

Decree.

The decree of the 31st January último, declaring in a state of blockade the coast of Cantabria comprised between Cape de Peñas and Fuenterrabia, as a necessary measure for the isolation and prevention of the introduction of outside aid for the Carlist insurgents now infesting several provinces in the north, has given occasion for the presentation of petitions from commerce, in good faith, both national and foreign, to the government, setting forth the prejudices which necessarily will accrue thereto from such a measure, by reason of the continued transactions and the large interests affected thereby in the greater portion of the ports of the above-mentioned coast.

The government of the republic, which, while giving heed in the first instance to putting down the insurrection, does not for a moment forget the importance of our industry nor the necessity of encouraging it, and protecting, as it should, our mercan-

tile transactions, has decided to take into consideration the representations above mentioned, and until, after subjecting them to an extended examination, a definitive resolution shall be adopted which shall harmonize all interests so far as it may be possible, the government, in a council of ministers, decrees the following :

ARTICLE I. The term established in article 6 of the decree of the 31st of January ultimo, for the commencement of the enforcement on the coast of Cantabria of the state of blockade therein ordered, is prorogued until the 5th day of March proximo.

ART. II. The ministers of state and of marine shall give immediate information of this resolution to whom it may concern for its full publicity, for its communication to the representatives of Spain in foreign countries, and for its exact fulfillment on the part of the naval forces of operations.

MADRID, February 19, 1874.

The President of the executive power of the republic,

FRANCISCO SERRANO.

The minister of marine,

JUAN BAUTISTA TOPETE.

[Inclosure 2 in No. 180.—Translation.]

Order of February 11, 1874, fixing the regulations to be observed in the blockade of the Biscayan ports and coast, published February 13, 1874.

MINISTRY OF MARINE.

The government of the republic, in agreement with the council of ministers, has been pleased to decide that the rules and regulations expressed in the following articles shall be observed by the vessels ordered to cruise off the Cantabrian coast now declared in a state of blockade, according to the provisions of the 7th article of the decree of January 31st last.

ARTICLE I. The commanders of the vessels detailed to cruise off the coast of Cantabria comprised between Cape de Peñas and Fuenterrabia, shall take especial care to search all suspicious vessels, and shall endeavor to prevent the introduction of articles contraband of war into the blockaded ports.

ART. II. The following articles shall be deemed contraband of war for the effects of the blockade: Cannons, mortars, howitzers, guns, pistols, revolvers, and all kinds of arms; shells, grenades, balls, caps, metallic cartridges, fuses, gun-matches, powder, saltpeter, and sulphur; equipments, such as uniforms, straps, and belts, harnesses, saddles, and, in general, all instruments or articles manufactured for or of direct application to warlike purposes.

ART. III. As for the exercise of the right of search, especially with respect to foreign vessels, the commanders of the naval vessels should bear in mind that the jurisdictional maritime zone comprised within the limits of the blockade extends from the line drawn from one to the other of the salient points of the inlets and bays for the space of three miles outward; such being the situation of the blockade coast, that only those vessels bound to its ports are obliged to sail close to the land, and consequently any others doing to, and having a different destination, are to be deemed suspicious, except in extraordinary circumstances.

ART. IV. Although the right of search in time of war may be exercised on the high seas as well as in the territorial waters of either belligerent, the government, desirous of protecting, as far as possible, commerce carried on in good faith, as well under the national as under a foreign flag, enjoins the commanders of the forces detailed for operations on the coast of Cantabria to limit the search and indispensable detention of merchant-vessels to those found within the jurisdictional limits specified in article 3, except in cases of justified suspicion, in which they will proceed in a different manner.

ART. V. As for the *form* of the visitation, when it becomes necessary, it is to be performed in the terms laid down as a general rule in article 120, title 5, of the General Naval Ordinances of 1793; that is, the cruiser shall stop, whenever nautical circumstances permit, at the distance of a cannon-shot from the vessel which is to be searched, sending a boat out to her, from which only one officer and two or three men shall go on board, the first of whom shall limit his action to examining the papers showing the nationality and the nature and destination of the cargo.

ART. VI. Every foreign merchant-vessel found within the limits of the blockade with goods contraband of war shall be good prize.

ART. VII. Those foreign merchant-vessels which come for the first time to the limits of the blockade shall be especially notified that the coast is blockaded, an entry being made to that effect in their log-book, in their roll, and in the register or manifest of the cargo, under the signature of the officer who performs the search. If, subsequently,

the same vessel, with such entries on her papers, be found within the line of the blockade, she shall be good prize whatever may be the character of her cargo.

ART. VIII. The Spanish vessels which may be found within the limits expressed in article 3, or which, being laden in our ports for other loyal ports, may change their course and make for another occupied by the rebel forces, shall be detained and judged by the competent tribunals.

ART. IX. The blockading forces shall set no impediment in the way of the continuation of the voyage of any national or foreign commercial vessel which, having cleared from a port in Europe, America, or Asia with the requisites and guarantees expressed in a separate order of this date, may be bound direct to the ports of Gijon, Santander or San Sebastian, which are excepted from the blockade for this purpose alone.

ART. X. The commander of the cruiser shall give immediate and detailed notice, at the first opportunity, of all visits effected upon national or foreign vessels, to the general commanding officer of the blockading forces for his information and for circulation among the vessels of the same.

ART. XI. Fishery being for the present prohibited along the coast of the provinces of Vizcaya and Gimpuzcoa, comprised within the limits of the blockade, the commanders of the cruisers shall seize the vessels and their crews which shall infringe this regulation.

ART. XII. The general commanding officer of the naval forces on the coast of Cantabria shall fix a sufficient period of time for national and foreign vessels to quit the blockaded ports and roads in which they may be at the time, which they shall do in ballast, or with a cargo shipped prior to the day of the establishment of the blockade.

By order of the government of the republic I inform you of this for your information and its circulation and exact fulfillment.

May God guard you many years.

TOPETE.

MADRID, *February 11, 1874.*

The GENERAL COMMANDING OFFICER of the naval forces on the coast of Cantabria.

[Inclosure 3 in No. 180.—Translation.]

Communication from the minister of marine to the minister of state, reciting the regulations for the blockade of the Biscayan ports of Spain, dated February 11, 1874, and published February 13, 1874.

MINISTRY OF MARINE.

YOUR EXCELLENCY: In compliance with the precepts of articles 2 and 3 of the decree of January 31st ultimo, which declares in a state of blockade the coast of Cantabria from Cape de Peñas to Fuenterrabia, with the sole exception of the ports of Gijon, Santander, and San Sebastian, which for the present shall continue open to lawful commerce, the government of the republic, in a council of ministers, has decided upon the observance of the following rules:

First. The consuls, vice-consuls, or consular agents of Spain in foreign ports, will continue to dispatch, in the usual manner, every Spanish vessel which may be completely and legally qualified to enter the ports of Gijon, Santander, and San Sebastian, the only ones comprised in the blockaded coast to which this privilege is extended.

Second. The captains or consignors of the said vessels shall present to the consuls, vice-consuls, or agents referred to a statement of the packages, boxes, &c., expressing generally or in bulk the contents thereof, which compose their manifest and entire cargo, which latter must consist altogether of articles of lawful commerce, to the absolute exclusion of such as are declared contraband of war.

Third. The said consuls, vice-consuls, or consular agents shall remit to the administrators of customs of the above-mentioned ports excepted from the blockade and to which the vessels are bound, a general note of the total cargo they carry thither, in order that they may be examined and searched for other articles not specified therein. The naval authorities in the above-mentioned ports, or their delegates, may undertake the search of these vessels, even though on passing the line of the blockade and while on the open sea they may have been already visited by the Spanish cruisers for the self-same purpose of ascertaining that they carry no prohibited articles of war, or unregistered goods.

Fourth. Merchant-vessels legally cleared from foreign ports for those of Gijon, Santander, and San Sebastian, shall, to enable them to pass the line of the blockade and be admitted to those ports, be subject in every particular to the regulations laid down for Spanish vessels in the preceding rule.

Fifth. The provision contained in the 3d rule is extended to the administrators of customs of those Spanish ports from which national or foreign vessels may clear for the three ports before mentioned excepted from the blockade.

Sixth. For the present the following articles are declared contraband of war: Cannons, mortars, howitzers, guns, pistols, revolvers, and every kind of fire or side arms; shells, grenades, balls, caps, metallic cartridges, fuses, gun-matches, powder, saltpeter and sulphur; military equipments, such as uniforms, straps and belts, harnesses, saddlery, and, in general, all instruments or articles made for or of direct application to warlike purposes.

Seventh. To the end that the measures of which the adoption is compelled by the state of war shall be least prejudicial to maritime commerce carried on in good faith and to the industrial enterprises which develop Spanish interests under the shelter of the laws, those vessels, both national and foreign, which, while the blockadelaists, may seek clearance from national or foreign ports to any of those not excepted above, and comprised in the blockaded coast, belonging to the province of Santander or Asturias, may do so, clearing, in the terms fixed in these instructions in the first, second, and third rules, for the ports of Gijon and Santander, and thereafter, if the circumstances of the war permit, they may sail for the ports to which they are bound provided with the corresponding safe-conducts which shall be issued to them by the naval authorities in conformity with the instructions they may receive to that effect.

By order of the above-mentioned government of the republic, I have the honor to communicate the foregoing to your excellency for your information and for immediate circulation among the representatives of Spain in foreign countries.

May God guard your excellency for many years.

MADRID, February 11, 1874.

JUAN BAUTISTA TOPETE.

To the MINISTER OF STATE.

No. 554.

Mr. Fish to Mr. Cushing.

No. 5.]

DEPARTMENT OF STATE,
Washington, March 4, 1874.

SIR: I inclose, herewith, for your information, a copy of a dispatch of the 12th ultimo, No. 43, and of its accompaniments from Mr. Hall, consul-general of the United States at Havana, relating to the decree of the captain-general of the island of Cuba, declaring that island to be in a state of siege.

I am, &c.,

HAMILTON FISH.

[Inclosure.—Translation.]

Decree declaring a state of siege.

Don Joaquin Jovellar y Soler, lieutenant-general of the national armies, captain general, superior political governor of the island of Cuba, general in chief of the army of operations and director general of all the arms and institutions of the same, &c., in the exercise of the powers on me conferred, do hereby decree the following:

ARTICLE 1. From the publication of this decree the island of Cuba is declared to be in a state of siege.

ART. 2. Those guilty of the crimes of rebellion, sedition, and similar offenses against the interior security of the island and public order, their accomplices and abettors, and those guilty of willful murder, shall be tried by ordinary court-martial and sentenced according to the penalties prescribed by the articles of war.

ART. 3. Those who commit the crimes of simple homicide, robbery, theft, arson, smuggling, fraud, and forgery against the state, and other common offenses, shall, as heretofore, be tried by the common courts of law, reserving, however, to myself to transfer for trial and sentence by court-martial all those the gravity of whose offenses may demand it, or in which such a course may be deemed expedient, requiring, also, that the judicial authorities shall notify me within the shortest time possible of the cases pending which, in their judgment, from their importance, demand such proceedings.

And in order that this decree shall have due observance, and come to the knowledge of all the inhabitants of the island, the same shall be inserted in the public journals, published in the usual form, and circulated with rapidity throughout the island.

HAVANA, February 7, 1874.

JOAQUIN JOVELLAR.

No. 555.

Mr. Adee to Mr. Fish.

No. 182.]

LEGATION OF THE UNITED STATES,
Madrid, March 4, 1874. (Received March 27.)

SIR: The prolonged crisis of the past six weeks or more has reached a temporary halting-place in the investment of Marshal Serrano with, practically, absolute powers as chief of the state. A decree, adopted in cabinet council on the 26th ultimo, and published in the official gazette on the 27th, separates the functions of the President of the executive power from those of the president of the council, and clothes the ex-regent with attributions even more extended than those he possessed during the early stages of the revolutionary period.

But a few days had passed after the events of the 3d of January, when it became apparent that the cabinet, although united in the main purpose of overcoming the factions in arms in favor of the traditional monarchy, was divided on matters of governmental procedure. The published manifestations of the new government were seen to lack that perfect harmony which might be supposed to mark the accords of men avowedly joined in defense of the conquests of the revolution. These divergencies first arose with respect to legalizing the status of a situation not directly descended from a prior legality but rather built upon its ruins. The first expression of the purposes of the government, as seen in the circulars of the minister of the interior and in the manifesto to the nation, seemed to assume that by tacit acquiescence in the new order of things the country had accepted it without reserve, and that an appeal to the popular will would be not merely supererogatory but productive of fresh conflicts and embarrassing issues. These two publications agreed in relegating the minor questions of form and procedure to an ordinary legislature to be chosen at some future time when the country and the colonies should enjoy peace, and the constitution of 1869, modified in a republican sense and released from its enforced suspension, should again become the supreme code of the land. Next appeared the celebrated memorandum of the minister for foreign affairs. In this notable state paper a new political phase came into view. It was asserted in no doubtful terms that the renunciation of the crown by the late King had left a void which remained to be filled under the existing constitution, although by whom and how did not appear. Its general tenor regarded the republican experiments of the past year as merely passing disturbances, barren of results, and serving only as warnings for the future.

From this time the diverging tendencies in the cabinet became marked. The need of obtaining some form of popular ratification of the situation created by the garrison of Madrid on the morning of the 3d of January, was advanced with increasing boldness and opposed with equal persistence. On the one hand it was contended that an enduring legality remained to be established; on the other it was proclaimed that the republic was already the government of the country, and that nothing was left to do save to arrange mere matters of detail.

At this stage of the question, a bomb was dropped into the camp in the form of a proposition for a *plebiscite*. This was first broached by the organ of Admiral Topete, "El Gobierno," which was promptly fined for a violation of the somewhat stringent press regulations in force. The discussion was, however, initiated, and could not be stayed; a crisis was definitely set on foot. The project was received with benevolence

by a fraction of the republican party, following, it was rumored, the leadership of Castelar. It was proposed that two questions should be presented jointly for the vote of the people: the acceptance of the republic as the national form of government, and the elevation of Marshal Serrano to the chief magistracy, following the example, set in the neighboring republic, of Marshal MacMahon. The moderate republican alliance was expected to insure the success of the scheme, and it was even hinted that the acknowledged leader of that party might be persuaded to organize the first ministry under the new legality. The retirement of the conservative element of the present cabinet was predicted as a certainty. The federal republicans, as was to be expected, opposed the scheme. A *plebiscite*, they said, was an innovation in Spain. It detracted still more from the prestige of the Cortes—the traditional supreme power under a long line of Spanish monarchs—already shaken by the events of the 23d of April and the 3d of January. And the experience of the measure in France had shown its untrustworthiness as a means of obtaining a genuine popular verdict. Its result was a foregone conclusion; the usual ratification of the *statu quo* by the masses in favor of tranquillity at any price. As the question was likely to be put, its defeat rejected the republic, and its acceptance set a monarchist in supreme power. The abstention of the entire federal element was therefore counseled. The discussion was, beside, inaugurated at a most inopportune moment. The Carlists, emboldened by their partial successes of Monte Jurra and Puente la Reina, in which the army under General Moriones had not been able to accomplish the strategic movements it undertook, concentrated their forces in the Basque provinces, and redoubled their attack on Bilbao. The situation of that city was critical in the extreme; its supplies were practically cut off, its strongest outpost, Portugalete, had fallen, and the besiegers brought their approaches nearer day by day, till their guns were able to command the town itself. Moriones, abandoning his old line of operations, had shifted his forces by sea to the west of the beleaguered capital, and the rival armies stood face to face almost under its walls. A great battle was imminent, and much depended on its issue. The attention of the nation was fixed on the Cantabrian coast, where its fate might be decided any day. It was in no humor for entering upon a heated canvass. The actual government, so far as it represented anything, represented liberal Spain arrayed against traditionalism. A diversion now, however well founded in principle, might weaken the resistance to the common enemy. It was therefore given out that no real motive for a crisis existed, that no immediate appeal to the country was contemplated, and that the cabinet was a unit as to the expediency of conferring the supreme magistracy on Marshal Serrano, but the only points on which perfect harmony did not prevail were the title, attributions, and salary of the chief of the state. Ulterior questions would be postponed until the siege of Bilbao was raised.

A period of anxious suspense followed. All eyes were turned to the north. A fearful tempest, with deluging rains, swept over the Biscayan coast. The operations of the army were paralyzed. The transmission of supplies and men was stopped. The vessels of the fleet sought refuge in the nearest harbors. Communications with the forces in the field were interrupted. The wires were prostrated by the storm, or cut by roving bands of marauders. In the absence of trustworthy news, the wildest rumors gained credence. The bourse showed the feverish spirit of the day by its rapid fluctuations.

The storm at last ceased, and the forces under General Moriones

began to move. Then came reports that the struggle had begun. Hundreds of the wounded were arriving at Santander. The Carlists' positions were being carried one by one. If the heights of Avano could be won, Portugalete would be retaken and Bilbao saved. At this point, however, the national troops met with a reverse, and after desperate fighting were forced to fall back to the positions they held on the first day, near Somarrostro. This was speedily magnified by the alarmists into a disastrous defeat. The bourse fell, and Spanish three per cents touched 14.15, the lowest price yet quoted since the revolution of 1868. General Moriones urgently called for six battalions of fresh troops. Every train for the north was laden with re-enforcements. Marshal Serrano and Admiral Topeté determined to put themselves in person at the head of the land and sea forces. This brought to a climax the lingering cabinet crisis, which now bid fair to become chronic. The *deus ex machina* of the situation, General Pavia, interposed his influence, and, as a compromise, constitutional issues respecting name and powers were left open by the retention of the title borne by the chief executive since the renunciation of Amadeo, supreme power was given to Serrano by a decree in council, and the vexed question of the forthcoming presidency of the ministry was postponed by intrusting the office provisionally to General Zavala, the minister of war. The decree was published on the 27th ultimo, and on the same day the president and the minister of marine set out for the Basque Provinces.

An analysis of the several articles of the constitution referred to in the preamble and decree in question will show the indeterminate character of the solution reached. They relate to the functions and powers of a king. Article 35 provides that the executive authority shall reside in the sovereign, and be exercised through his ministers. Title 4 (articles 67 to 76) defines the powers of the monarch. His responsibility devolves on his ministers. He may declare war and conclude peace. If the constitutional guarantees be suspended by reason of public disorders, as they are now, he is absolute until peace be restored. And article 86 provides that his decrees and orders shall be countersigned by the responsible minister. The decree of February 26 confers all these powers upon Marshal Serrano. No limitation is assigned to the duration of his term of office. Even the seventy-sixth article, which directs the emoluments of the king to be fixed at the commencement of each reign, has been followed in the present instance, and it is announced that a decree will soon be promulgated granting an income of one hundred thousand dollars annually to the chief of the state. It is not surprising that this solution should be claimed by the most extreme partisans as in accordance with their doctrines. The moderate republicans see in it the renewed affirmation of the republic, while the constitutional monarchists accept it as a return to first principles, under a merely transitory change of name. The vague intimation found in the preamble that the country may be consulted at a fitting time, while standing as an acknowledgment that the legality of the act still awaits the national sanction, does not show the manner in which it is to be obtained. Nor is it evident in what way the suggested reform of the constitution, in a republican sense, is to be accomplished, whether by decree of a self-constituted executive, by summoning anew the historical Constituent Cortes of Spain, or by direct legislation in an ordinary parliament. In short, it may not inaptly be said of the present arrangement, as was said of the authority assumed by the Prince President of the French Republic of 1848, by Mr. Jerningham, the British chargé

d'affaires in Paris, that "if not absolutely perfect, it is at least perfectly absolute."

Meanwhile the gravity of the situation in the north remains unchanged, or is, perhaps, even greater than before. Spain has been well-nigh stripped of troops to re-inforce the army of operations in Vizcaya. The sending of men to Cuba has been suspended, and it is even proposed to take a thousand Carlist prisoners from the Cuban service and reship them to Spain for exchange. A fresh storm has delayed military movements on the one hand, while on the other the forces of the pretender, some twenty-five thousand strong, have had ample time to increase their already strong defenses. They still hold most of Aragon and Catalonia. Guerrilla bands roam almost without hinderance in the east. Santes is operating with a formidable column in Guadalajara, at some eighty miles distance from Madrid. Besides the army besieging Bilbao, Don Carlos can show a muster-roll of thirty thousand men in the rest of the peninsula. It seems, however, that the main issue is to be fought out before the heights of Somarrostro and Avano, and in the vicinity of Portugaleta. The government of the 3d of January is staking all on the east. If it loses now, its future is critical to the utmost, and if it wins, the question of a definite organization of a national government on bases of unquestionable and lasting legality remains as a source of perplexity, and perhaps of peril.

I am, &c.,

A. AUGUSTUS ADEE.

[Inclosure.]

Decree of February 26, conferring the chief magistracy of the nation upon Marshal Serrano.

[Translated from "La Gaceta de Madrid," February 27, 1874.]

PRESIDENCY OF THE EXECUTIVE POWER OF THE REPUBLIC:

Decree.

Nations, like individuals, obey the instinct of self-preservation, and since they cannot die—for human society may be transformed but it does not perish—it is a law of history that in critical moments they always find in themselves the providential instrument of their salvation. So it fell out on the memorable 3d of January. The army, nobly represented by the garrison of Madrid, faithfully and fearlessly interpreting the national sentiment, which gazed with horror upon the advancing tide of general dissolution, rushed forward to meet the danger, and in a few hours, without effusion of blood, confident of the moral support of all the social forces, restored order and freed Spain from the horrors of demagogism.

Thus a perfectly legal state of things, but one that nevertheless appeared to be in close alliance with anarchy, was brought to nought amid the execrations of the people. The Cortes were dissolved, after having displayed their baleful impotence, and when they had already been doomed to a violent end through their own waywardness. And now, to replace the Cortes, a firm, energetic government became at once necessary; a government which, fortified by all the attributes of authority concentrated in it, should have the means to resist and dominate the Carlists, and to secure the tranquillity of the state so profoundly perturbed.

Since the uprising of the 3d of January was not the result of political combinations nor of dark conspiracies, but rather the spontaneous upheaval of society in self-defense on seeing its dearest interests ignored and trampled under foot; and since also heterogeneous elements, unanimous now in the one idea of saving the country, had joined hands without previous accord to this common end, the form of government came forth intact from this supreme crisis and was accepted as an existing fact, because the vastness of the peril and the greatness of the purpose hushed in nearly all parties the voice of rival aspirations. Without denying their antecedents, without failing in their pledges or breaking faith with their doctrines, urged on by the irresistible necessity of the hour, recalling the noble example offered by liberal and conservative parties in France, they demurred not to an honorable compromise with the republican régime which they found already established, and which the same military movement of the 3d of January was bound to respect and did respect.

From this political concord, imposed by events, and to which nearly all parties not

in arms loyally submitted, sprang forth a new situation, vigorous indeed, but more or less indefinite in form, as the natural result of the confusion that at first existed. If it was inevitable, and, perhaps, expedient, that the person elevated at that time to the supreme magistracy of the nation should assume also the presidency of the council of the ministers, yet now, when such urgent and temporary motives have in a great measure ceased, the indefinite prolongation of this anomalous state of things might give rise to serious and incessant conflicts. In all countries governed by a constitution the chief of state, whatever be his title, does not govern directly, but through responsible ministers, subject to removal from office; because, otherwise, if he were at one and the same time the judge and the party in a political or administrative measure, he would fail to discharge properly his ordained mission as a moderator, and would no longer be the impartial arbiter between the various tendencies which in modern society dispute the control of public opinion. No political organization, however imperfect, can contain a stable power which forms an integral part of transitory powers; nor is it conceivable how difficult cabinet questions can be resolved with unimpassioned judgment by one who, in the exercise of his office, is obliged to intervene therein, and perhaps even to initiate them.

The evil being known, and the difficulties of the first few days having been overcome, it becomes urgent to proceed with the separation and limitation of the powers and functions respectively corresponding to the president of the executive power and to the ministers, pursuant to article 35 of title 2, title 4, and article 87 of title 6, of the constitution; and it is all the more urgent, because it is the most expeditious mode of strengthening the government created by the legitimate exigencies of the nation, of facilitating its progress, and of giving to it conditions of regularity, which are always conditions of strength.

In order to attain this object, it is not necessary to change the nature of the power constituted on the morning of the 3d of January, nor to commit any act of usurpation; which, however, could in no case be such, especially as the gravity of our political status has placed discretionary authority in the hands of the chief of the government. It is only necessary that the President of the executive power should renounce any immediate and personal intervention in the counsels of the ministers, confining his functions to those which the constitution of 1869 attributes restrictively to the chief of the state, and which may be compatible with the character with which he is at present clothed, and those transitorily allowing the exercise of the extraordinary powers made indispensable by the violence of our civil discords. In this way, by establishing a legal separation between the supreme moderating power and the active elements of the government, the confusion that embarrasses, or rather paralyzes, political action is dispelled, constitutional precepts on the most essential points are affirmed, and the President of the executive power is relieved from functions which do not belong to him, and is clothed with due independence to exercise, within the orbit of expressly-defined faculties and attributions, his impartial and elevated magistracy.

In view of all these considerations, and without prejudice to an appeal to the country when its condition shall admit thereof, the government of the republic, in council of ministers assembled, has seen proper to emit the following decree:

Sole article.—In view of the constitutional incompatibility existing between the functions of the chief of the state and those corresponding to the president of the council of ministers, Don Francisco Serrano y Dominguez renounces the latter office, reserving only to himself, as President of the executive power of the republic, the powers and functions comprised in title 4 of the constitution of 1869, and the extraordinary powers with which he stands invested until the restoration of public peace.

Given at Madrid on the twenty-sixth of February, one thousand eight hundred and seventy-four.

The President of the executive power of the republic,

FRANCISCO SERRANO.

The minister of state,

PRAXEDES MATEO SAGASTA.

The minister of grace and justice,

CRISTINO MARTOS.

The minister of war,

JUAN DE ZAVALA.

The minister of marine,

JUAN BAUTISTA TOPÉTE.

The minister of finance,

JOSÉ ECHEGARAY.

The minister of the interior,

EUGENIO GARCIA RUIZ.

The minister of public works,

TOMAS MARIA MOSQUERA.

The minister of ultramar,

VICTOR BALAZQUEZ.

Decree.

MADRID, February 26, 1874.

Exercising the powers and functions conceded to me by the constitution, I hereby order that Don Juan Zavala y de la Puente, minister of war, be charged with the presidency of the council of ministers.

The President of the executive power of the republic,

FRANCISCO SERRANO.

The minister of state,

PRAXEDES MATEO SAGASTA.

No. 556.

Mr. Adee to Mr. Fish.

No. 183.]

UNITED STATES LEGATION IN SPAIN,
Madrid, March 4, 1874. (Received March 27.)

SIR: I have the honor to forward herewith a copy and translation of a decree dated the 2d instant, and published in the official gazette of this day, indefinitely suspending the blockade on the northern coast of Spain, decreed on the 31st of January last. This action is understood to be due to the representations of France and England against the proposed measure.

I am, &c.,

A. AUGUSTUS ADEE.

[Inclosure.]

Decree of March 2, 1874, indefinitely suspending the blockade decree of January 31, 1874.

[Translated from "La Gaceta de Madrid," of March 4, 1874.]

MINISTRY OF MARINE.

Decree.

In deference to the continued reclamations of commerce, both national and foreign, setting forth the prejudices which will accrue thereto by the immediate enforcement of the decree declaring the coast of Cantabria, comprised between Cape de Peñas and Fuenterrabia, in a state of blockade; and in view of the necessities which may arise by reason of the Carlist insurrection, I have ordered, in conformity with the report of the council of ministers, the following:

ARTICLE 1. The decree of the 31st of January last, declaring the coast of Cantabria from Cape de Peñas to Fuenterrabia in a state of blockade, is hereby suspended until a further resolution be taken.

ART. 2. The ministers of state and of marine shall give opportune knowledge of this decree to those to whom pertains its due publicity, its communication to the representatives of Spain in foreign parts, and its exact fulfillment on the part of the naval operating forces.

Santander, March 2, 1874.

The President of the executive power of the republic,

FRANCISCO SERRANO.

The minister of marine,

JUAN BAUTISTA TOPÉTE.

No. 557.

Mr. Adee to Mr. Fish.

No. 189.]

UNITED STATES LEGATION IN SPAIN,
Madrid, March 9, 1874. (Received April 2.)

SIR: I have the honor to transmit herewith for your perusal an interesting letter from the Porto Rican correspondent of "La Epoca," pub-

lished in that journal last evening. It is valuable as representing the views held by the reactionists in the lesser Antilla, and the satisfaction the partisans of the old *régime* find in the prompt removal of General Primo de Rivera from command by Marshal Serrano's government and the investment of General Sanz with the powers he held two years ago. The wise and patriotic administration of General Primo de Rivera is denounced as an epoch of sheer communism, to be condemned by all order-loving Spaniards. The reforms inaugurated in the last months of Amadeo's reign are deplored as unmingled calamities; joy is expressed that the baleful influence of the "flibusters" is brought to an end, and confidence is felt in the happy results of the energetic measures adopted by the newly-replaced captain-general. That they were most energetic hardly admits of doubt. The liberal press was promptly suspended as a preliminary. Within a week General Sanz, by virtue of the extraordinary powers conferred upon him by the government of the 3d of January, suspended all the constitutional guarantees; dissolved the provincial legislature and appointed another in its place, under the presidency of the Marquis de la Esperanza, the old leader of the pro-slavery party in the island; replaced all the existing town-councils by others appointed by himself, and removed the three "protectors of the freedmen" appointed under the late emancipation act, filling their places by honorary appointments in the interest of the partisans of reaction. The powers given to General Sanz are understood to be discretionary to the full, as his introductory decrees show, and it is expected that they will shortly be followed by others equally energetic, tending to restore the old status of Porto Rico. Since the measures adverted to, and those established by General Jovellar in Cuba in the exercise of the absolute authority recently restored to the commander of that island, are clamorously applauded by all the adherents of the actual government of the mother country, they may safely be accepted as the expression of the colonial policy of Marshal Serrano's administration. I need do no more than allude to the now-famous batch of decrees issued by the captain-general of Cuba early last month, and of which the text was doubtless in your possession before their publication here. These measures were for the most part resolved upon in cabinet council here in January, and responded to the anxiety caused to the new ministry by the increasingly-critical condition of affairs in Cuba, by the alarming activity and boldness of the insurgents, by the near close of the fifth campaign of the rebellion, as yet profitless of any decisive results in favor of Spanish domination, by the impossibility of dispatching reinforcements to make good the numerous annual losses, and by the desperate state of the insular finances. The best results are anticipated from General Jovellar's action, and much stress is laid on the circumstance that he is no longer subject to fanatical legislative interference in insular matters or the unwise and hampering control of the executive. In short, they have awakened conservative confidence to such an extent that the journals already announce the insurrection as in its last agonies, an announcement which at least lacks the merit of novelty if not of trustworthiness.

I am, &c.,

A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

Letter from Porto Rico, published in "La Epoca," Madrid, March 8, 1874.

PORTO RICO, February 12, 1874.

President Serrano's cabinet have made a most excellent selection in appointing General Sanz as governor-general of this island. Had it not been for this appointment, and for the taking of Cartagena, many misfortunes would have happened in Porto Rico. At a first glance it seems as if Cartagena had nothing to do with this province. We shall see, however, that we have been on the point of having partisans of Contreras here.

The nine months that we had of rebel propagandism greatly excited the minds of the people of this island, who are as impressionable as they are innocent in political matters. On seeing the military officers banished who had most distinguished themselves by their attitude at Lares, or by the identity of their views with those of the Spanish party; on seeing deported to the little island of Vieques the only member of the expelled party who returned; on seeing that the reform press were permitted loudly to demand the disarming of the volunteers and of the civil guard; on seeing the disorganization of compulsory labor and the annulment of the contracts for three years to which the freedmen were subjected by the law of emancipation; on seeing provincial and municipal interests intrusted to unskillful, utilitarian, and insolvent hands; on seeing the plague of office-seeking developed with a celerity the like of which had never before been known; on seeing the scandals caused by political manifestations, which were not prevented by the authorities, and which hauled down the Spanish flag with impunity at San German and other places; on hearing the filibuster cry of "*Hurrah for free Porto Rico!*" raised before the very eyes of the captain-general, who was haranguing a crowd composed mainly of negroes; on seeing a military officer of high rank acting as vice-president of a federal reform committee presided over by one of the amnestied actors at Lares; on seeing the Jesuits' college basely attacked, not because they were Jesuits, but because they were Spaniards; on seeing the secret societies (which here are always promoters of filibusterism, whether called masonic or otherwise) making threatening demonstrations in the public prints and at public meetings; on seeing the civil guard stripped of its powers and wholly under the control of alcaldes belonging to the reform party; on seeing the captain-general taking turns with the negroes at his balls and his greased-pole games; on seeing, in a word, these and similar abuses permitted, encouraged, and even applauded by the authorities, the audacity of federals, secessionists, and demagogues rose to such a height that the least spark would have been sufficient to cause a conflagration had it fallen upon this pile of combustible material.

On the 13th of February news reached this island, via Havana, of the downfall of the federal Cortes, which were dissolved without effusion of blood, and almost fell to pieces of themselves at the mere sight of the bayonets of the intrepid General Pavia. The news was joyfully received here by the unconditional Spaniards, and with terror by those who are Spaniards only on certain conditions. The blow was a fatal one for the reform federal party of Porto Rico. This was undoubtedly the reason why the wire-pullers at once began to console their friends by means of a thousand fables, each one more alarming than its predecessor. Some said that the constituent Cortes had transferred their sessions to Saragossa, where they held the reins of government and were the only legitimate authority in Spain. Others asserted that the entire southern half of the peninsula had risen in a cantonal insurrection. Some said that the illustrious Duke de la Torre and his companions had been dragged through the streets. Others that the besieging army at Cartagena had been routed by the intransigents.

To all this the reform press, or, in other words, that which was considered here as the ministerial press, said in every tone that the government "created by the fourteen thousand bayonets of Pavia was an illegitimate government." "To which of the governments of Spain do we owe obedience?" asked the so-called federal reform papers; "to that of Contreras, that of Don Carlos, that of Serrano, or that of the legitimate constituent Cortes?" And the panic spread among the good, and the audacity of the bad increased. Next came the news that, in a certain village, the alcaldes of the vicinity were holding meetings, at late hours of the night, in the interest of filibusterism, and that these meetings were attended by men whose hostility to Spain and to all orderly government was well known; and it was said that, in certain localities, companies of rebelliously-disposed persons had been formed, and that, after having chosen captains, officers, sergeants, corporals, and even commanders, they were being drilled in musket-firing. Places were pointed out where guns had been introduced, and stories were told of strange men who had ridden through the various jurisdictions at full speed, circulating documents supposed to have been issued by General Primo de Rivera.

Meantime, other circumstances rendered the attitude of the authorities more suspicious. One spoke of mysterious interviews; another of emissaries sent to the rural

districts; another of proclamations in which it was stated that there was no government in Spain, and that the conduct of Pavia and Serrano was iniquitous. Finally, counsel and support were asked of the town-boards.

Be the facts as they may, what seems most true is that news unfavorable to the government was received on the 24th via the United States, and this news was sent by telegraph to the town-boards, and on the 25th the following notice was posted up in all the towns, in the most conspicuous places:

"His excellency, the superior governor, addresses to me the following telegram, bearing date of to-day: 'Reports have been circulated at the capital both in favor of and against the present situation. I know nothing officially. Foreign papers say that Barcelona has risen against the government of Serrano; that the fortress of Monjuich has opened fire on Barcelona; that Cartagena has repulsed an attack; that Portugalete is in the hands of the Carlists, and Bilbao bombarded. Nothing can be believed; but the situation of Spain is worse than ever; let this serve us as an example to maintain order, and to obey the laws and the *legitimate authorities*.'

'PRIMO DE RIVERA.'

We will not closely examine the spirit of this communication. It is unnecessary.

At last came the 26th, a sad day for the ultra reform party. Submarine communication between Ponce and Jamaica had just been opened by means of a new cable instead of the old one, which had been broken. The first news received by the new cable was that Cartagena had surrendered, and that General Sanz had been appointed captain-general of Porto Rico. A thunderbolt falling among a herd would not have produced so magical an effect as did this important news. The piratical flag, around which the disintegrating elements of our society intended to rally, had fallen in shreds before the guns of General Lopez Dominguez; the name most beloved by the good and most feared by the bad, that has ever been known in this province, had crossed the Atlantic.

The scene was at once changed. Those who expected to disturb the public order and to unite their forces under the shadow of a political standard and under the protection of a superior authority, blinded by party spirit, trembled. There was no longer time for anything. The telegram said that General Sanz had sailed, and, consequently, in from four to six days, he would be here at the head of an army, and of a force of volunteers who adored him. What was to be done? The captain-general sounded the retreat by publishing in the *Gaceta* of the 27th the fact that Cartagena had surrendered. He concealed nothing but the coming of General Sanz.

But, if this checked the revolutionary elements in their way to ruin, it was not sufficient to destroy the impulse which they had received. Suspicious meetings multiplied. Mr. Primo de Rivera understood his own situation and that of the country which he had disturbed, and, on the 31st of January, he published in the *Gaceta* a circular, which made noble amends for his previous errors.

"The report is circulated," said he, addressing the *alcaldes*, "that there is a project on foot to disturb public order.

"You will immediately adopt all necessary prudential and repressive measures to dissipate these rumors, and if the smallest fact gives ground for them, you will avail yourself of the aid of the civil guard, of the volunteers, and of the army, adopting all such measures of vigilance and of repression as the case may require. Public order is not to be disturbed for a single moment. The *alcaldes* will be personally responsible to me for this."

This document, it must be confessed, was received with disdain by some and with concentrated anger and indignation by others. To the former it was too late; to the latter it appeared to be a desertion, as if there was a Spaniard capable of betraying his country.

Hereupon the 2d day of February arrived. The steamer *Isla de Cuba* entered in the morning, having on board the wished-for general.

The inhabitants were animated; the shops were closed in order that the volunteers might go to receive the general to whom the country owes so much. An immense number of people repaired to the wharves to welcome his excellency.

But here occurred an incident already foreseen. Mr. Primo de Rivera refused to give up the command, under the pretext either that he had not received or that he was not willing to receive orders to that effect from Madrid. The upright of the authorities assembled. General Sanz, having been made acquainted with these scruples, sent his credentials to Primo de Rivera. All this delayed the hour of landing. The second in command gave orders for the troops to form, and, under the pressure of circumstances, Mr. Rivera concluded to give up the command, not to General Sanz, but to Brigadier Enrile, who immediately went to receive the new captain-general.

Never has the city of Porto Rico received a governor with so much joy, with so many demonstrations of pleasure, and with such a large and intelligent gathering of spectators as those with which it received General Sanz. Scarcely had the ceremony terminated of delivering the keys at the gate of San Justo, which is at a pistol-shot

arf, when thousands of voices hurrahed with indescribable enthusiasm.

for the new superior authority. Even the negroes shouted, "Long live the liberator of Porto Rico!" "Long live our captain-general!" "Long live General Sanz!" When this officer had arrived at the cathedral, passing between two long files of soldiers and volunteers, who with the greatest affection paid him the honors due to his high rank, the temple was crowded with the people of the town to such an extent that many individuals had to remain outside. Many balconies were spontaneously decorated with tapestries of the Spanish flag. At night a popular band of music struck up a serenade, which was afterward continued by the military and volunteer bands.

But the popularity of the new governor was instantly increased on the publication of his magnificent and magnanimous proclamations to the inhabitants, soldiers, and volunteers of Porto Rico. Order, union, morality, adherence to the nationality, forgetfulness of the past, these were the synthesis of those documents. Although I know that your enlightened journal must needs receive and publish those remarkable documents, I cannot forbear to copy the following beautiful passage, which has turned out a few hearts in favor of Mr. Sanz:

"I come not to cause tears to be shed on account of violent repressions, but to dry them up with voluntary solicitude; I come not to impose slavery again, as you have been told, but to render effective your liberty, to which I have contributed by my vote as a deputy of Porto Rico; I come not to augment differences of opinion, but to exert myself to have them disappear forever; I come not to awaken ancient dissensions, but to extinguish, by means of forgetfulness, any error which has a tendency to destroy our common nationality, any design which may have been entertained in disregard of your interests or to the injury of Spain.

"Integrity of our country, union of all Spaniards, toleration of all opinions, austere morality in administration, these are my programme."

As soon as he assumed command the new governor went to work with that nervous activity which characterizes him to restore this agitated community to its normal condition. It is true that he has an intelligent and experienced auxiliary in Mr. Diz Romero, appointed secretary of this government. On the same day that he arrived the general ordered the directors of the press of the capital to be called before him, and told them that every newspaper which should speak against the national integrity or against the constituted government, or should fling to the winds of publicity seditious writings, having a tendency to disturb order, would be suppressed, and of its director would be exacted the proper responsibility. Under this plain admonition the incendiary press kept silence. The *Progreso*, which on the day before had announced its disappearance for want of subscribers, ceased to be published. The *Canta-Claro* and the *Diablillo Rojo*, of Ponce, uncompromising organs of insular federalism, of their own accord also failed to see the light of day.

On the 3d the "Gaceta" published a brief decree, suspending in this province articles 2d, 5th, and 6th, and paragraphs 1st, 2d, and 3d of the 17th, of Title I of the constitution. The federalists had not recovered from this confusing blow when, in the following number of the "Gaceta," that of the 5th, was published a decree, laconic and expressive, like all those of General Sanz, in virtue of which the provincial deputation has been dissolved and another has been appointed, composed of the most distinguished persons in the country, at the head of which has been placed the Marquis de la Esperanza, that illustrious son of Porto Rico who has made so many sacrifices to bear aloft in this land the Spanish flag. Two days afterward, on the 7th instant, there appeared in the official newspaper another decree dissolving the insolvent municipal councils which existed, and appointing others chosen from the principal landholders of each locality, always endeavoring to put in these corporations a majority of natives of the country, without caring, provided they were orderly persons of property, whether they belonged to the reformist party or not.

All these measures, effected one after another with prudence and rapidity, have disconcerted the neo-federalist party, and communicated consistency and vigor to the Spanish party. The country, oppressed and annoyed by the insupportable taxes imposed upon it by its regenerators, has consented with thanks and contentment to other necessary counter-reform taxes. I think that if General Sanz continues here as long as he ought, tranquillity, wealth, and happiness must be restored to this unfortunate country.

Already the superior authority referred to has ordered to be undertaken with energy the construction of a road from here to Ponce, an indispensable highway, which will communicate life and abundance to many fertile valleys that now lie isolated in the interior. Already, too, he has begun to effect savings as to the number of officials by abolishing the three protectors of freedmen, whose compensation was \$7,500, and appointing representative persons to fulfill the duties honorarily.

Well does the reputable, honest General Sanz begin his second administration. I know not whether filibusterism will venture to make its appearance soon. It is possible. Some time since there was talk of large sums held by the separatists abroad for the purpose of bringing four simultaneous expeditions to light up the flames of

civil war at the four most strategic points of the sea-coast. But I know that the general is following with avidity the trail of those intrigues, and that if a "Virginus" should make its appearance here, there will also be Costillas and Burriels. In short, I can assure you that the great majority of the country is with Spain, and with her worthy representative, General Sanz. All from our inmost hearts thank the government presided over by the Duke de la Torre for the excellent choice it has made in sending to us for governor of this island him whom its capital had three consecutive times elected to represent the Spanish party in the Cortes of the nation.

As respects the military, the captain-general has not yet adopted any important measures, as he is awaiting his chief of staff, Colonel Don Manuel Cortés, sent for a third time to Havana on account of intrigues of filibusterism. But his excellency has already caused to be brought from Ponce and Mayaguez the two thousand muskets which Mr. Primo de Rivera had withdrawn from this post, leaving it without any reserve. With the muskets have come 140,000 cartridges, which had been taken with them.

I finish this letter by saying that the departing general began to make his expiation on embarking. Nobody, not even his aides or his friends, accompanied him. He went alone, sad and abandoned, on board of the Pizarro, at the same time that Mr. Sanz was the subject of the enthusiastic ovation which has been referred to.

No. 558.

Mr. Adee to Mr. Fish.

No. 193.]

UNITED STATES LEGATION IN SPAIN.

Madrid, March 14, 1874. (Received April 4.)

SIR: I have the honor to forward, herewith appended, copies and translations of decrees dated the 10th instant, accepting the resignation of General Jovellar as captain-general and superior civil governor of Cuba, and appointing as his successor Capt. Gen. José de la Concha, with the titles of governor-general, captain-general, and commander-in-chief. I also annex copies and translations of two other decrees of the same date, one of which suppresses the office of civil governor of Havana and creates a mayoralty in its place, while the other changes the title of the superior civil governor of the island to that of governor-general, and defines the powers and functions of the office, creating at the same time two general directions of insular administration and finance, under the control of the superior authority. You will observe that the last paragraph of Article II provides that all questions relating to international matters are within the exclusive cognizance of the governor-general. As the powers belonging to that latter office depend upon the colonial ministry, and are not merged in the captain-generalcy, as has been heretofore asserted in some instances, it is to be hoped that all ground of conflict between the military and civil orders emanating from the home government and affecting foreign citizens, will hereafter be obviated. Since his nomination was decided upon, General Concha has been in almost daily consultation with the president of the council, General Zavala, concerning the course to be pursued on taking supreme command in Cuba. It is understood that his plan of operations has been submitted to the government and approved. It is stated that, in an elaborate memoir on the subject, General Concha deprecates the assumption that the insurrection in Cuba is near an end, and needs but a final energetic effort to crush it. He is represented as saying that the resources and number of the insurgent forces, and the difficulty of conducting operations in the territory held by them, point to a protracted contest, in which skill rather than numbers must prevail. The rumor that he had demanded large re-enforcements is contradicted, and it is

said that, while six or eight thousand fresh troops are needed to keep up the insular contingent to its full standard, the present situation in Spain forbids their being sent, and the financial embarrassments of the island do not admit of any considerable increase in the actual numbers of the army of Cuba.

General Concha will sail for Havana on the 18th instant, in the regular mail-steamer, the departure of which has been delayed to allow of the completion of the necessary arrangements for his departure.

I am, &c.,

A. AUGUSTUS ADEE.

[Inclosure 1 in No. 193.]

Decrees of March 10, 1874, accepting General Jovellar's resignation and appointing General Concha captain-general of Cuba.

[Translated from "La Gaceta de Madrid" of March 14, 1874.]

PRESIDENCY OF THE COUNCIL OF MINISTERS.

Decrees.

Acceding to the re-iterated desires of Lient. Gen. Don Joaquin Jovellar y Soler, I hereby accept the resignation he has tendered of the offices of captain-general, superior civil governor of the island of Cuba, and general-in-chief of the army of the said island, proposing to myself to make use of his distinguished services as soon as possible.

SOMORROSTRO, *March 10, 1874.*

The President of the executive power of the republic,

FRANCISCO SERRANO.

The president of the council of ministers,

JUAN DE ZAVALA.

I hereby appoint as governor-general, captain-general of the island of Cuba, and general-in-chief of the army thereof, Don José Gutierrer de la Concha é Trigoyen, captain-general of the army.

SOMORROSTRO, *March 10, 1874.*

The President of the executive power of the republic,

FRANCISCO SERRANO.

The president of the council of ministers,

JUAN DE ZAVALA.

[Inclosure 2 in No. 193.]

Decrees of March 10, 1874, establishing certain administrative changes in Cuba.

[Translated from "La Gaceta de Madrid" of March 14, 1874.]

MINISTRY OF ULTRAMAR.

Decrees.

At the instance of the colonial minister, and in accord with the council of ministers I hereby decree the following:

ARTICLE I. The political government of the jurisdictional territory of the city of Havana, instituted by the royal decree of October 14, 1859, is suppressed.

ART. II. A mayoralty (*alcaldia correjimienta*) is created in that city, the functions of which office shall be the same as those conferred upon the political governor, as *ex-officio* president of the town council, (*ayuntamiento*), by the royal decree of January 30, 1866.

ART. III. The mayor (*alcalde corregidor*) shall be appointed by the colonial minister on the proposal of the governor-general of the island.

Given in Somorrostro March 10, 1874.

The President of the executive power of the republic,

FRANCISCO SERRANO.

The colonial minister,

VICTOR BALAGUER.

Decree.

To the end that the superior authority of the island of Cuba may proceed in the exercise of his governmental and administrative functions with the security, the rapidity, and the energy which are conjointly demanded by the state of the war and the management of the treasury, without prejudice to the integrity of the faculties appertaining to the central power, on the proposal of the minister of the colonies and in accord with the council of ministers, the President of the executive power of the republic decrees the following:

ARTICLE I. The superior authority of the government of the republic in the island of Cuba shall be hereafter styled "governor-general."

His duties and faculties in matters relative to the *Patranato de Indias* and to the departments of war and marine shall be those to-day possessed by the superior civil governor of the said island under existing laws and regulations.

In the civil branches of the public service of the state, he shall have the obligations and powers conferred upon the superior civil governor by the royal decree, now in force, of the 26th of November, 1867.

In the extraordinary cases which may occur in the government of the island, he may make use of the faculties, likewise extraordinary, consigned in the orders now in force.

ART. II. For the administrative and economical *régime* of the island, there are established, under the authority of the governor-general, two directions general, one of civil administration and the other of finance.

To the former pertains the immediate charge of all the administrative services previously under the control of the suppressed direction of administration, according to the general schedule which accompanied the above-mentioned royal decree.

To the direction of finance pertains the immediate control of the economical services now under the management of the intendente general de hacienda, in conformity with the orders and regulations now in force. Cognizance of matters of public order and of those of an international character rests exclusively with the governor-general.

ART. III. For the dispatch of the business to which the last paragraph of the preceding article relates, a secretary's office of the governor-generalcy is established.

ART. IV. The governor-general shall prepare the regulations for the execution of the present decree and submit them to the approbation of the ministry of ultramar.

He shall also prepare plans for the *personnel* of the above-mentioned officers, and shall submit them to the said ministry, reducing the estimates and making such retrenchments as may be possible without detriment to the exigencies of the service.

ART. V. All laws and regulations incompatible with this decree are hereby revoked. Given in Somorrostro, March 10, 1874.

The President of the executive power of the republic,

FRANCISCO SERRANO.

The colonial minister,

VICTOR BALAGUER.

No. 559.

Mr. Adee to Mr. Fish.

[Extract.]

No. 207.]

UNITED STATES LEGATION IN SPAIN,

Madrid, April 19, 1874. (Received May 7.)

SIR: I have not ventured to review the political situation in the Peninsula for some time past, as we have continually seemed to be on the brink of stirring changes which have not come about, and as the countless prophecies and predictions born of the dearth of trustworthy news are generally contradicted by the events of the succeeding day. During the six weeks that have passed since my No. 182 was sent, only two prominent facts seem worthy of record—the inability of General Serrano to force a passage through the Carlist lines at San Pedro de Abanto, and the continued leaning of the government of the 2d of January toward reaction, as shown in its measures and public appointments.

Nearly the whole of March was suffered to pass by before Marshal

Serrano began his anxiously-expected movement against the forces of the pretender. The weather having become settled and all available re-enforcements having arrived, hostilities were opened afresh on the morning of the 25th ultimo, and a strong force was thrown over the narrow stream called El Rio de Somorrostro. The outlying picket stations of the Carlists were soon carried, and the fight began in earnest. For three days the republican troops were hurled unavailingly against the almost impregnable works that defended San Pedro de Abanto, the key to the position. The soldiers fought bravely, and the few instances of demoralization that occurred were promptly checked by their general officers rallying the men and leading the attack in person. It was in a crisis like this that Generals Primo de Rivera (a brother of the late governor of Porto Rico) and Loma were wounded at the head of their columns. On the evening of the 27th, after a long and bloody day, the unequal contest was suspended, ostensibly for the purpose of burying the dead, and has not yet been resumed.

Marshal Serrano has occupied and fortified the positions taken in the first day's fight on the east side of the brook of Somorrostro, and has limited his offensive operations to long-range practice on the buildings presumed to be occupied by the Carlists. The supply of telegrams from the front, which began with much exuberance on the morning of the 25th, soon slackened and then ceased, and we now have only the stereotyped formula, "no news from headquarters."

A violent storm has raged on the coast for some ten days past, and communications by sea and land have been so effectually interrupted that we have been for eight consecutive days without a mail from the north. One has at last arrived to-day, but as its distribution is a somewhat slow and elaborate process we probably shall have to wait till to-morrow or next day before it is completed.

* * * * *

It is said, and probably with foundation, that the nomination of Marshal Concha to the command of a corps, as yet but partially organized, responded to the desire of Marshal Serrano to have a chief officer at hand to assume superior command in the north and direct the coming attack, in case events should compel the return to the capital of the President and commander-in-chief at a critical moment.

* * * * *

I am, &c.,

A. AUGUSTUS ADEE.

No. 560.

Mr. Cushing to Mr. Fish.

No. 12.] LISBON, May 6, 1874. (Received May 28.)

SIR: I arrived here on the 29th ultimo, and have remained watching the progress of the war in Biscay, in order to decide at what time to proceed to Madrid.

Everything which has occurred since the date of my dispatch No. 6, of April 10, has tended to justify the conclusion then reached of not landing at Santander.

Intelligence has now arrived here of the success of the efforts of President Serrano to raise the siege of Bilbao. This result has been ob-

tained, *avowedly*, in imitating the strategic movements adopted by General Grant before Richmond. A large force under General Concha was detached to turn the lines of the Carlists on their left, while General Serano operated on their right, and by means of a feint upon their center and the consequent accumulation of their forces at that point, he made sure the success of General Concha.

The effect of these operations was to compel the Carlists to abandon all their positions before Bilbao. It appears, however, that they retreated in order, and that thus, although defeated in their attempt to gain possession of Bilbao, they still continue in force, both in the Basque Provinces and in Navarre and Catalonia. But the campaign on the part of the government has been so far triumphant as to strengthen and confirm the power of President Serrano.

Meanwhile, however, there is extreme political agitation at Madrid, with many indications of the approaching dissolution of the present cabinet, and the formation of a new one of more homogeneous elements, but still under the presidency of General Serrano. For, although the enemies of President Serrano—and he has many—have the opportunity now of crying up General Concha at his expense, yet, on the whole, he seems to continue to have greater strength for the moment than any other person in Spain.

Numerous reasons have presented themselves to forbid my appearing at Madrid prior to the determination of the military and political issue at Bilbao, and before the return of the President to the capital, invested with the prestige of victory; without which, indeed, it would have been impossible for me to present my credentials, or to enter into any official relations with the government.

I shall now proceed by way of Badajoz to Madrid.

I have, &c.,

C. CUSHING.

P. S.—I desire to express my obligations to Mr. Lewis, minister resident of the United States in Portugal; also to Mr. Diman, the consul here, for many acts of voluntary aid and courtesy, received from them during my detention at Lisbon.

No. 561.

Mr. Cushing to Mr. Fish.

No. 21.]

LEGATION OF THE UNITED STATES,
Madrid, June 1, 1874. (Received June 22.)

SIR: I have the honor to report that my official presentation to the President of the executive power of the Spanish republic took place on Saturday the 30th ultimo, according to the usual forms practiced in Spain.

At the appointed hour there came to the legation two state coaches, drawn by four horses each, attended by outriders, in one of which was the chief clerk of the ministry of state, Señor Millan y Caro, discharging the duties of introducer of ambassadors, to accompany me to the presidency; and, in the other, an adjutant of the Duque de la Torre, the Conde de Paredes de Nava, to accompany Mr. Adee.

On entering the presidency, as well as on leaving the same after the act of presentation, there were salutes from a company of artillery drawn up in front of the presidency.

We were met at the foot of the staircase by two adjutants of the Duque de la Torre, Señores Carvajal and Sartou, who accompanied us to the hall of receptions, where awaited us the President, in the uniform of a captain-general of the army, having the minister of state on his left hand, and surrounded by his adjutants and by the Señores Nuñez de Arce, Boada, and Fernandez Miró, secretary general and officials of the presidency.

I then addressed the President in the following words :

SIR: I am instructed by the President of the United States of America to deliver to your excellency, the President of the executive power of the Spanish republic, letters accrediting me as envoy extraordinary and minister plenipotentiary of the United States to this republic.

I am further instructed to embrace the present occasion to say that the President of the United States earnestly desires to maintain unimpaired the relations of peace and amity between them and Spain, which commenced at the very epoch of the independence of the United States, and which, notwithstanding the many disturbing events of the century thus elapsed, have never ceased to prevail, thanks to the sentiments of reciprocal consideration which have at all times controlled the counsels of the respective governments.

On my part it is the dictate not more of duty than of pleasure to assure your excellency of my purpose, while sparing no effort in the proper assertion or defense of the interests of my country, at the same time to comport myself with the utmost personal deference and courtesy toward the national authorities and the people of Spain.

Permit me, in conclusion, to felicitate the republic over which you preside, and yourself personally, in view of the successes attained by the government in the promotion of domestic peace, and to express ardent hopes that, ere long, Spain, in the full possession of stable constitutional institutions, in the tranquil cultivation of her unrivaled territorial and maritime resources, and in the unembarrassed development of the high qualities of her national character, may re-occupy that proud historical position which pre-eminently belongs to her among the nations of Europe.

I now have the honor to place in the hands of your excellency the letters of credence intrusted to me for that object by the President of the United States.

The President replied to me as follows :

[Translation.]

MR. MINISTER: While it is gratifying to me to receive these letters, by which the Government of the United States sanctions your merits and the confidence it reposes in you, still more satisfactory will be to all Spain the sentiments you express to us in the name of the President of that republic, and the recollections which, on delivering your credentials, you have so eloquently evoked.

Spain showed, in truth, a century ago, that neither her traditions in both glorious continents, nor the intimate signification of her history, could suffice to weaken her generous sympathy for your republic, even as they have not altered, in so long a course of time, the spontaneous consideration which our country faithfully observed toward all friendly governments.

This loyalty, of which our nation is proud, will animate the Spanish government in its efforts to preserve and draw closer in the future the good relations which happily unite us with the republic of the United States of America.

To aid such noble purposes and to insure their best result we shall have the concurrence, Mr. Minister, of your experienced knowledge, your distinguished endowments, and the very frankness with which you have expressed the convictions which are to be your guide in your important mission; and the executive power of the Spanish republic, solicitous like yourself to maintain the rights and interests of its country, deems this duty perfectly compatible with the mutual consideration and especial deference which two nations so long friends should observe toward each other.

I receive, Mr. Minister, with particular gratification and thank you with hearty earnestness for your congratulations upon the successes attained by our army in the direction of liberty and peace in Spain, and I too share your hope that, with God's aid, the Spanish nation, freed within a brief time from the opposite and extreme tendencies which lately perturbed it, may tranquilly make use of all its resources and succeed both by its political institutions and its material progress in taking the rank it merits in the assemblage of civilized nations. In expressing confidently this aspiration of my soul, I cherish with the same sincerity and with no less earnestness the desire that your wide republic may continue to develop her manifold and incalculable riches, augmenting in every possible degree the remarkable prosperity it now enjoys, and attaining through the wisdom of its administrations the greatest good of all its citizens.

Here the ceremony of presentation terminated. The President then advanced to shake hands, after which I presented Mr. Adee, who had not previously been presented to him, and he then invited me to be seated and to enter into conversation, which of course had no relation to public affairs, and therefore does not need to be repeated.

The minister of state, Mr. Ulloa, then advanced to participate in the conversation, at the conclusion of which he informed me that it would be unnecessary for me to make previous application for official interviews with him as to any ordinary business, seeing that he should be ready to receive me any and every day at 5 o'clock in the afternoon.

I then took leave of the President and Mr. Ulloa, and we returned to the legation in the same carriages and with the same ceremony as on going to the presidency.

I am, &c.,

C. CUSHING.

No. 562.

Mr. Cushing to Mr. Fish.

No. 34.]

UNITED STATES LEGATION,
Madrid, June 18, 1874. (Received July 7.)

SIR: The raising of the siege of Bilbao by the republican forces under the command of General Serrano and General Manuel de la Concha, was a political as well as a military triumph for the government, and to the Carlists it was not only a military defeat, but also a political disaster, inasmuch as it obstructed, if it did not absolutely prevent, their obtaining further pecuniary resources in France and England; but it did not suffice to subdue the spirit or overcome the tenacity of the Carlists, although it has produced material change in the strategy as well of them as of the republicans.

At the present time the republicans continue to hold the most important positions on the sea-coast of the Bay of Biscay, including uninterrupted communication by rail between Madrid and Santander. But scattered parties of Carlists are still operating in all parts of Vizcaya, as well as of Guipuzcoa and of Alava. The same general state of facts occurs in Navarre, and also in a very considerable part of Catalonia, Aragon, and Valencia. From time to time these detached parties sally from their fastnesses in the mountains to levy contributions, depredate, kidnap, and murder in the contiguous regions of Old Castile, and in those of Catalonia, Aragon, and Valencia not permanently occupied by them.

Meanwhile the Carlists occupy the entire land frontier on the side of France, and the adjoining districts of France from Pau to Bayonne are their place of refuge, their source of supplies, and their seat of military and political conspiracy against the government of Spain.

Carlists also control, or interrupt when they please, all the lines of railroad from Madrid to the northern land frontier and to the north-eastern or eastern sea frontier. The direct line from Madrid to France, by the way of Irun, is permanently stopped, and the line from Barcelona, by Saragossa to Madrid, has been stopped repeatedly during my short residence at Madrid, as also has been the line from Valencia to Almansa.

Most of these detached parties of Carlists are of a relatively small

number of persons, headed by petty chiefs, *cabecillas*, as they are called; but some of them are of very respectable numbers, amounting to several thousands, such as one at least of the parties operating in Aragon and Valencia. Over two of the larger of these parties the government has lately gained victories.

But the Carlists have been compelled to concentrate the mass of their forces in the southern part of Navarre by reason of the movements of General Manuel de la Concha, who, starting from Bilbao, and leaving garrisons on the way at selected strategic points, has traversed Vizcaya and Alava, and proceeded along the general line of the Ebro, for the purpose of thus advancing on Navarre, so as to cut off that province from the three Basque provinces, and to attack the Carlists in what is called their stronghold, namely, Navarre.

As the result of this movement Concha now has a large force of all arms, and especially well provided with artillery, echeloned from Logronõ by Lodosa and Sesma, threatening Estella, which is the present military headquarters of the Carlists.

Here the advanced posts of the respective armies are already in sight of one another, in daily expectation of engagement. The Carlists, uncertain at what point or on which side the republicans may attack Estella, have been driven to the necessity of extending and therefore greatly weakening their line, so as to defend the various possible points of attack; while Concha, throwing out parties to threaten the different points of the long line of the Carlists, is preparing, in his own time, to bring up the mass of his forces against some selected point of that line, and thus fight to advantage and enter Estella.

The people in Madrid are all now in daily and solicitous expectation of the impending battle, which, if gained by the government, may not at once terminate the war, but cannot fail to constitute a fatal blow to the hopes of the Pretender.

I have, &c.,

C. CUSHING.

No. 563.

Mr. Cushing to Mr. Fish.

No. 35.]

UNITED STATES LEGATION IN SPAIN,
Madrid, June 18, 1874. (Received July 7.)

SIR: No material change in the political situation here has occurred since the date of my dispatches Nos. 14 and 16.

Gossip of society and of the newspapers continues to be occupied more or less with suggestions of imputed purposes or tendencies of the government in relation to the question of the re-establishment of monarchy in the person either of Don Alfonso or of some foreign prince; but most of the agitators on this subject give expression rather to their own wishes or hopes than to any definite expectations founded either on acts or ascertained intentions of the government, which seems inclined to continue the present provisional system, (*interinidad*,) at least until after the achievement of more complete and absolute triumph over the Carlists.

Meanwhile the government continues to administer public affairs in the name of the republic, and with agencies and forms of authority,

derived either from the letter of the existing constitution or from its predecessors in the administration of the republic.

The most oppressive care of the government is to find money for the daily exigencies of the civil and military service. Successive administrations have so tampered empirically with the sources of the public revenue, they have so frequently had recourse to loans at a ruinous discount, they have so completely exhausted all the means of real security for loans, that it is only by the most extraordinary sacrifices that money can be obtained even for the maintenance of the troops in the field. The consolidated debt has fallen to near thirteen per cent. Of course the treasury cannot or will not sell its bonds at this rate, and it raises money by hypothecating them to bankers on loans of ten per cent. of the face and on short terms, which does but stave off the inevitable ruin, and render it the more disastrous when it shall arrive.

It is to be remembered that, in the midst of all her financial troubles, Spain perseveringly and steadfastly adheres to a specie currency. To be sure banks exist, and bank-notes to a relatively small amount are in circulation; but redeemability in specie is regularly exacted of them. No other paper money or currency exists. At the same time, there is obviously no want of gold, silver, or copper currency, although, perhaps, there is a disproportionate quantity of the latter. And there is ample evidence to show that, in addition to the specie in circulation, a large amount is hoarded by persons who will not trust their savings either to public funds, ordinary banks, or even savings-banks.

Although the government has not succeeded in placing itself on a satisfactory footing with England, France, Germany, and Russia, yet it seems to have made some advance in that direction by the circular of the 22d ultimo, addressed to the foreign representatives of Spain.

A copy of this document* may have been communicated to you by the Spanish minister at Washington; but in reference to the possibility that it may not have been, a copy is annexed to this dispatch.

I have, &c.,

C. CUSHING.

No. 564.

Mr. Cushing to Mr. Fish.

No. 47.]

UNITED STATES LEGATION,
Madrid, June 30, 1874. (Received July 20.)

SIR: Since the transmission of my two dispatches Nos. 34 and 35, of the 18th instant, important events have occurred here, of which you may not be unwilling to receive information.

1. The military situation:

At that time General Concha was advancing by Lodosa and Sesma for the purpose of attacking Estella and cutting the line of the Carlists, so as to separate Navarre from the Basque Provinces.

On the afternoon of the 27th, (Saturday,) Concha had advanced to as far as Abarzuza, a place to the north of Estella, with portions of his force at Murillo, Lorca, Villatuerta, Oteiza, and other points, in a semi-circle, on the northeast, east, and southeast of Estella.

* See correspondence with the Spanish legation.

Meanwhile other troops had been advancing from Pamplona and from Tafalla, under command of Generals Eschagüe and Martínez Campos, to unite with General Concha on the eastern side of Estella.

All these points, together with the lines of movement before and after that day, will be perceived upon inspection of the map of the theater of war herewith inclosed.

After engagement with artillery, occupying most of the day of the 27th, a column of attack was ordered to assail the enemy's trenches at a point between Murillo and Estella, called Monte Muru, which is not designated on the map.

No details of what then happened are yet made public here; but the subsequent incidents show that the attacking battalions must have been repulsed with great loss relatively to their numbers.

Thereupon a supporting column was ordered up to continue the attack, but the troops refused or hesitated to advance as ordered. On this General Concha rode to the front to address and exhort the troops, and, in the act of doing this, received a musket shot in or near the breast, which produced immediate death.

As to what immediately followed, all we know with certainty is, that the troops of the government then retired in order, it would seem, and carrying with them their train, and retreating upon Orteiza, pursued to that point by the Carlists; and at the present moment they are posted at Larraga, Berbinzana, Miranda de Arga, Olite, and Tafalla, the bulk of the army being now, it is said, at Tafalla.

General Concha's body was conveyed as soon as possible to Tafalla, from which information came to Madrid by telegraph early on the afternoon of the 28th, (Sunday.)

A meeting of the cabinet was immediately called at the ministry of war, and President Serrano, who had gone to La Granja the day before, was summoned back to Madrid, where he arrived in the course of the evening; and it was arranged that the minister of war himself, Captain-General Zavala, should take the place of General Concha in command as general-in-chief of the forces in the field, General Cotoner being appointed *ad interim* minister of war.

The death of General Concha has produced extraordinary emotion in Madrid, with universal expressions of sorrow and respect here and in other parts of Spain. It seems to be admitted on all hands that he was the ablest among the veteran generals of Spain. He was poor, having no resources but his pay. He leaves one child, a daughter, the wife of the Marqués de Sardoal; at present chief *alcalde* of Madrid.

Yesterday and to-day every disposable soldier has been hurried off to the seat of war, including many superior officers, and among the rest General Moriones, who acquired reputation in a previous, though unsuccessful, campaign against the Carlists in the same region of country.

It does not appear that the losses sustained by the troops of the government were absolutely large, not exceeding, perhaps, fifteen hundred men in killed and wounded; but the repulse, the retreat, and the death of General Concha, have contributed to produce a deep impression at Madrid.

Intense indignation toward the Carlists is felt here on account of a recent proclamation issued by the commander-in-chief of the Carlist forces, Dorregaray, in response of expressed purpose of General Concha to waste the country, and in which Dorregaray announces intention hereafter to give no quarter; in the spirit of which declaration it is said that he caused to be killed such of the wounded as were left behind by the retreat of the forces of the government.

2. As to the political situation :

The minister of hacienda, Mr. Camacho, has been occupied ever since his appointment in examination of the state of the public finances and in devising ways and means for the service of the government. The result of his labors appears in an official report and in various decrees published in the "Gaceta" of the 28th. Exhibiting, as Mr. Camacho's report does, continual diminution of revenue and continual increase of expenditure, it was unfortunate that it should appear on the morning of the day when knowledge arrived of the death of General Concha; for, although Mr. Camacho has but obeyed the dictates of duty in stating frankly the condition of the finances and in suggesting the necessary measure of imposition of new taxes, still the information given by him, and the remedies proposed, necessarily serve to augment the public discouragement, and to occasion a fall of the funds to the lowest point they have yet reached, more especially in view of the loud complaints of the English company who control the Spanish foreign debt, and who consider one of the measures proposed by Mr. Camacho as a violation of a contract heretofore made, not long ago, by the Spanish government for securing the payment of overdue coupons by means of certain securities held by or belonging to the government.

This last matter seems likely to be taken up by the British government in behalf of the bondholders; and, whether it be so or not, it cannot fail to be highly prejudicial to the credit of the Spanish government in England.

I have, &c.,

C. CUSHING.

No. 565.

Mr. Cushing to Mr. Fish.

No. 48.]

UNITED STATES LEGATION,
Madrid, July 2, 1874. (Received July 23.)

SIR: The funeral ceremonies in honor of General Concha occurred to-day, the body being taken from the church of San José, in the calle de Alcadá, (the parish church of the deceased,) and conveyed in procession of superior military and civil authorities of the nation, district, and city, with accompaniment of troops of all arms, by the calle de Alcadá, the Puerta del Sol, the Carrera de San Geronimo, and the Paseos, to the church of Atocha, where the final services were performed.

Particulars of the late military movements before Estella have now arrived.

General Concha's death took place substantially under circumstances as stated in my dispatch No. 47, with this material difference only, that the shot of which he died entered the body on the left side, under the shoulder-blade, and came out through the right breast.

Reflection on the subject, with all the details before me, satisfies me that the failure of this attack on the defenses of Estella was not due exclusively, if in any great degree, to the death of General Concha.

The troops of the government were spread over a long line of at least twelve kilometers, in three separate divisions, and of course the enemy, operating from the center of this semi-circle, possessed advantages of defense superior to the means of attack in the hands of General Concha.

The transportation of the latter seems to have been inadequate to the exigency; for the troops reached their destined positions so far in advance of the coming up of the train, that a long delay was necessary before they could be put in motion, and after all with but half rations. Meanwhile, this delay in the advance enabled the Carlists to see clearly what was the intended point of attack, and gave them time to mass at that point a body of troops apparently superior in numbers to those which could be brought up for the assault. In addition to this the attacking forces operated under the extreme disadvantage of the occurrence of rain-storms, which converted the field of movement into deep mud, so as physically to impede as well as morally to dishearten the assailing columns, which nevertheless made the assault with undeniable gallantry and courage, so as in effect to have carried several exterior lines of intrenchment, and then to have yielded at last only to superior numbers. In effect, the circumstances on this occasion of the attempt to carry Monte Muru, and the result, are strikingly similar to those which occurred in the attempt of General Serrano to carry the intrenchments of San Pedro Abanto last March. It is manifest that thus far the forces brought into the field by the government are utterly inadequate to combat successfully the Carlists, operating, as the latter do, not only in the Basque provinces and Navarre with constant assistance from France, but also in the secondary ranges of mountains traversing Aragon, Catalonia, and a large part of Valencia.

And yet it is difficult to see how the government is to obtain the additional hundred thousand men, which it ought to have in order to bring the war to a speedy conclusion. The present sum total, according to the best attainable estimates, is two hundred thousand men.

All the troops of reserve now being collected in depot or sent forward are youths of the age of nineteen, *mozos*, (boys,) as they are expressively called in the military language of the country. I have had the opportunity of seeing many thousands of these recruits here, who are in appearance intelligent and spirited, yet are much more slender in frame than regular troops of the same class in the United States.

I do not hear of any troops being sent forward to Cuba, where the captain-general seems to be left to such resources of men or money as he may be able to get together in the island.

According to the latest official estimates here the number of troops sent from the peninsula to Cuba, from the year 1869 down to the present day, is 82,500, of which number 36,412 have succumbed in the field or from disease, leaving only a nominal force of say 46,000, (many of whom must be invalids,) for present service of the government. In addition to which it deserves to be noted that a large number of muskets purchased by the last captain-general for use in Cuba have been withdrawn and ordered home for use in the peninsula.

It is not surprising that, under these circumstances, great discouragement should prevail in official circles here, to say nothing of more or less uncertainty respecting the purposes and actions of political parties throughout the country; with the great question rising above all others, whether or not, at some unexpected moment, the troops may not *pronounce*!—for it is no exaggeration to say that the political fortunes of Spain at all times during the present generation, and never more so than at the present time, are mainly dependent on the will of the army.

I have, &c.,

C. CUSHING.

No. 566.

Mr. Cushing to Mr. Fish.

No. 63.]

UNITED STATES LEGATION,
Madrid, July 20, 1874. (Received August 12.)

SIR: Occurrences of the last week present many points of general importance, and some of special interest to the United States.

Since the death of General Concha and the repulse of the forces of the government in their movement on Estella, there has been cessation of active operations in that direction. A part of the army continued, at last advices, to occupy Tafalla, but with headquarters retired to Logroño. Meanwhile the Carlists seem disposed to take the offensive, not only in the north but more especially in the east.

Early in the month the Carlists, under the command of Don Alfonso de Este, brother of the pretender, made an attack on Teruel, capital of the province of Teruel in Lower Aragon, situated due east of Madrid and about two-thirds the distance between that city and the Mediterranean. Failing in this, the Carlists then advanced into New Castile and laid siege to the city of Cuenca.

This city is the capital of the province of Cuenca, one of the six provinces into which the former kingdom of New Castile is now divided. It is about eighty miles from Madrid, on a straight line to the city of Valencia.

After being cannonaded for several days, and suffering great loss in the destruction of buildings by fire and otherwise, Cuenca surrendered to Don Alfonso on the 15th. Thus much, and no more, is known by official information.

Reports are current that Don Alfonso abandoned the city after pillaging it and levying heavy contributions.

Strange as it may seem, notwithstanding that Cuenca is so near Madrid, no direct and certain information of the surrender on Wednesday, the 15th, reached here until the evening of Saturday, the 18th. Nay, on the 18th General Soria Santa Cruz, who had been dispatched in all haste for the relief of Cuenca, informed the government that Cuenca still held out, and that he expected to reach the place in season to meet and repel the forces of the Carlists.

This event has produced profound impression here, and has tended to hasten, at least, the execution of measures which have been meditated for some time past by the government, and which have now been adopted in the hope of thus terminating the civil war which is devouring the resources of Spain.

Accordingly, on the date of the 18th, we have a series of decrees, with prefatory exposition of motives, as follows, namely:

1. Decree declaring in state of siege all the provinces of the peninsula and the adjacent islands.

2. Decree—

(a.) Authorizing the government to embargo the property of all persons who are shown to be incorporated with the rebel forces or who shall serve the Carlist cause.

(b.) Indemnifying all persons prejudiced by acts not the necessary effect of war.

(c.) Indemnifying the heirs of officers or soldiers shot after being made prisoners, at the rate of 100,000 pesetas, (\$20,000,) for a general; 50,000 pesetas, (\$10,000,) for other officers of less rank, and 25,000 pesetas, (\$5,000,) for common soldiers.

3. Decree dissolving all societies of whatever class, condition, or object not authorized by the government.

4. Decree forbidding newspapers to publish any news of the civil war other than those inserted in the "Gaceta de Madrid."

5. A decree calling into service eighty battalions of extraordinary reserve, equivalent to a nominal force of 125,000 men.

You will note in these decrees the distinct and unequivocal condemnation of the shooting of prisoners, and the rate of indemnity per head to be awarded to the heirs of all such prisoners so executed.

In addition to these decrees we have a *bando* of the captain-general of New Castile, which defines with precision the effects of the *estado de sitio*, such as we may suppose will be issued by other captains-general. I inclose herewith translation of these expositions and decrees.

I have, &c.,

C. CUSHING.

[Inclosure.—Translation.]

Five decrees of July 18, 1874, enacting extraordinary measures for the suppression of the Carlist rebellion.

1. Decree declaring the peninsula and adjacent islands in a state of siege.

PREAMBLE.

SEÑOR PRESIDENT: The government of the nation, animated by the most elevated sentiments, has made great efforts to bring back to the fulfillment of their duties the rebels who aspire to raise upon the blood-stained soil of their country institutions condemned by reason and by history.

In vain has the generosity of the liberal parties repeatedly stretched the mantle of pardon over those who continually take advantage of our misfortunes. Partisans of a régime which hampers the flight of intellect, which burdens the dignity of man, which dries up the pure sources of progress, and which confines the nations within the narrow limits of a baleful fanaticism, they have never been able to understand the motives of our conduct, attributing it perhaps to our weakness.

Craving a victory denied to them by public sentiment and by the progress of the century in which we live, they spare nothing, however reprehensible, in order to succeed in their perverse designs. Means of communication, monuments raised by piety and art, the offices of the state, the provinces, and the towns, public capital, private interests, and even the sanctity of the domestic hearth, all these are seen to be trampled upon by their spirit of destruction, and day by day the country sees with sorrow, and the surrounding nations see with horror, the disappearance among the flames, without benefit to their plans of combat, of a part of that which had cost so much perseverance and toil.

In such a state of profound perturbation, speedy and efficacious governmental measures are rendered necessary.

Circumstances imperiously demand that the ministry be inspired with a sentiment of concord toward all the men and all the parties who sincerely love liberty and the good of the community, and the present crisis calls with urgency for the concentration of every element of government, so that, by giving unity to the action of power, it may reach every part with rapidity and energy.

With a general effort, and by restoring to the principle of authority its lost strength, we shall succeed in re-establishing moral order, so profoundly perturbed, and saving society and the nation from dissolution and ruin.

Resting upon these considerations, we submit for the approbation of your excellency the following draught of a decree.

Madrid, July 18, 1874.

The president *ad interim* of the council of ministers and minister of the interior.
PRAXEDES MATEO SAGASTA.

(Signed by the remaining members of the cabinet.)

DECREE.

Taking into account the reasons set forth by the council of ministers, I hereby decree the following:

ARTICLE I. All the provinces of the peninsula and adjacent islands are declared in state of siege.

ART. II. The captains-general of the provinces shall assume and exercise during the state of siege the extraordinary faculties which, in such a state, are laid down for them in the general army ordinances.

ART. III. In all the provinces permanent military commissions shall be organized to take cognizance, in council of war, of all crimes of conspiracy, rebellion, sedition, and whatever may tend to aid the rebels or to disturb public order.

ART. IV. The government will in due time give account of this decree to the Cortes. Madrid, July 18, 1874.

FRANCISCO SERRANO.

(Countersigned by all the ministers.)

2. Decree confiscating Carlist property and providing for indemnity for families of prisoners shot by Carlists.

PREAMBLE.

SEÑOR PRESIDENT: A measure of self-defense, which, in circumstances analogous to ours, has been forced upon all civilized nations, is the principal object of the decree which we have the honor to submit to the approbation of your excellency.

The Spanish nation, which is making so many and such great sacrifices to end the disastrous war against the Carlists, cannot allow the wealth of its enemies, which until now has been under the protection of the laws under the same conditions as that of peaceable citizens, should serve as a powerful instrument to prolong and extend a struggle which perturbs the onward movement of public prosperity, which decimates the flower of Spanish youth, and which dishonors us in the eyes of Europe.

The measure also includes an act of justice in the indemnification which is to be obtained from the property of the rebels in favor of those who have been willfully outraged by the rebels in their persons or property.

It is, moreover, necessary, seeing that we cannot prevent this savage warfare which Carlism seeks to inaugurate, and which carries with it the baleful train of hostages, reprisals, and shooting of defenseless persons—a warfare which, in self-respect, we do not wage and will never wage, whatever may be the provocation to which we are subjected—to endeavor at least to restrain it, so far as our means will permit, within less inhuman bounds, casting upon the important personages of the Carlist party the legal responsibility attaching to the outrages they may commit, because they are morally responsible therefor, who have placed arms in the hands of fanaticism and ignorance wherewith to wound their country.

Resting upon such foundations, we submit to your excellency the following draught of a decree.

Madrid, July 18, 1874.

(Signed by all the members of the cabinet.)

DECREE.

In consideration of the reasons laid before me by the council of ministers, I hereby decree the following:

ARTICLE I. The government is authorized to embargo the property of the persons who are shown to be incorporated with the rebel forces or who may be serving the Carlist cause. The object of this measure is: 1. To prevent the products of the property so embargoed from being applied to the sustenance and propagation of the war. 2. To indemnify injured parties for all the damage caused to them by acts which are not the necessary consequence of war.

ART. II. The heirs of general officers, (*jefes*), line officers, (*oficiales*), soldiers, and volunteers, who may be shot after having surrendered or being made prisoners, shall be indemnified from the revenues of the aforesaid embargoed property, or that which may be embargoed thereafter, and by means of an extraordinary tax to bear exclusively upon the Carlists.

ART. III. The amount of indemnity to which the foregoing article refers shall be regulated in the following form:

To the next of kin of a general officer so shot, the sum of 100,000 pesetas; to those of line officers, 50,000 pesetas; and to those of soldiers and volunteers, 25,000 pesetas.

ART. IV. No validity will be recognized in any transfer of ownership in Carlist property effected after the publication of this decree.

ART. V. The ministers of grace and justice and of finance are hereby charged with preparing the regulations and orders for the fulfillment of this decree.

ART. VI. The government will give account to the Cortes of the use and application it may make of the preceding enactments.

Madrid, July 18, 1874.

FRANCISCO SERRANO.

(Countersigned by all the ministers.)

3. Decree closing all societies and associations not organized according to law.

DECREE.

In view of the gravity of the present circumstances, and the reasons set forth by the council of ministers, I hereby decree the following:

SOLE ARTICLE. The governors shall proceed to the immediate dissolution of all societies, whatever may be their class, condition, or object, which are not organized under authorization of the government, excepting those of credit, of public works, and others spoken of in the decree law of 1869.

Madrid, July 18, 1874.

FRANCISCO SERRANO.

The president *ad interim* of the council of ministers and minister of the interior.
PRAXEDES MATEO SAGASTA.

4. Decree prohibiting the publication of other war news than that printed in the Gazette.

DECREE.

In consideration of the present state of the country, I hereby decree the following:
SOLE ARTICLE. The periodical press shall publish no other intelligence of the Carlist insurrection than that inserted in the "Gaceta de Madrid."

Madrid, July 18, 1874.

FRANCISCO SERRANO.

The president *ad interim* of the council of ministers and minister of the interior.
PRAXEDES MATEO SAGASTA.

5. Decree calling out 125,000 additional troops between 22 and 35 years of age.

PREAMBLE.

SEÑOR PRESIDENT: The civil war which now so profoundly perturbs the country, drenching our fields with blood and consuming our public fortune, is not only a direful calamity, but also a great ignominy. Neither the honor of Spain nor the most sacred interests so gravely compromised can permit of the prolongation of this struggle, that ruins us and humiliates us before the civilized world. It is imperative to stifle it at once; it is necessary to extirpate without delay this cancer, that threatens to devour us; it is indispensable to make a supreme effort which, although for the time may be sensibly felt, will obviate other efforts in the future greater than this, perhaps, but assuredly not so efficacious. For each day whereby the end of this fratricidal war is brought nearer greatly increased advantages will accrue, in sparing precious blood, enormous costs, and painful sacrifices. The government, knowing the noble loftiness and the solid base of patriotism that enrich the liberal Spanish people, would fail in its duty if, through weak deliberation or faint-hearted hesitancy, it did not make use of those fecund sentiments.

An act of intense vigor and energetic virility is needed: public opinion demands it, and the government does not hesitate to perform it. It has, therefore, the honor to propose to your excellency the creation and summoning to arms of 125,000 troops of the extraordinary reserve, which will permit of sending to the field the whole of our present army—enough to annihilate in a short time the insurgent hosts. With that force, whose active service shall be local, and at most within the limits of each of the military districts, aided by the national militia, an institution no less useful and important, but within a more passive and sedentary sphere, public order may be deemed completely assured, as well as the defense of our towns and the support of the respective bases of the armies in the field.

In view of all these reasons, the council of ministers has the honor to submit, for the approval of your excellency, the accompanying decree.

Madrid, July 18, 1874.

(Signed by all the members of the cabinet.)

DECREE.

In view of the considerations set forth by the council of ministers, I hereby decree:
ARTICLE I. Eighty battalions of the extraordinary reserve are created in the territory of the peninsula and Balearic Islands, which is divided for that purpose into eighty districts of approximately equal population, in each one of which shall be formed a battalion in conformity to the annexed table, A, and to the forces which respectively result from the recruiting in each district.

ARTICLE VIII. There are called to the service of the extraordinary reserve 125,000

men, from those who, on the day of the publication of the present decree, may be unmarried or widowers without children, and who have not served in the army or navy, who have not been redeemed, substituted, or excepted on account of physical disability in previous conscriptions, and who, on the 30th day of June last, shall have completed twenty-two years and not have completed thirty-five.

ART. XV. There shall be admitted in the extraordinary reserve volunteers who may be discharged from the army without unfavorable notes in their discharge papers, and who do not exceed thirty-five years of age, paying to them a premium of 1,000 pesetas, and giving them preferential option to the places of corporals and sergeants if they possess the necessary qualifications therefor.

ART. XVI. The duration of the service of the men who enter the extraordinary reserve in virtue of this call, as well as of the volunteers, shall be for the term of the war, and six months more, if the government deems this extension necessary.

Madrid, July eighteenth, eighteen hundred and seventy-four.

FRANCISCO SERRANO.

(Countersigned by all the ministers.)

[Inclosure 3 in No. 63.—Translation.]

Proclamation of General Rey to the inhabitants of New Castile, announcing martial law.

Don Antonio del Rey y Caballero, lieutenant-general of the national armies and captain-general of the district of Castilla la Nueva, &c., &c. In compliance with the orders of the executive power of the republic, in its decree published in the Gazette of this day, I order and command—

ARTICLE 1. The provinces of Madrid, Toledo, Ciudad-Real, Cuenca, Gaudalajara, and Segovia are declared in state of siege, and during the continuance of such state of siege there are resumed, in my authority, the extraordinary powers conceded to me by article 5, chapter 8, title 8, of the general ordinances of the army.

ART. 2. All crimes of conspiracy, rebellion, sedition, and any others tending to aid the rebels or in any manner to disturb public order, which may be committed after the date of the publication of this proclamation, shall be submitted to the judgment of the permanent councils of war, which, from and after to-day, are organized in this capital and in the provinces of the district under my command.

ART. 3. Those guilty of the crimes of intercepting ways of communication and the telegraphs, cutting bridges, attacking trains with armed force, destroying or injuring effects destined for maintenance of the lines, and all injuries caused to railways whereby the security of travelers or goods may be prejudiced, shall be submitted to the permanent councils of war, and shall be punished with the penalty of death and with the other penalties provided in the penal code, conformably to the provisions of the order of the executive power of January 21, 1874.

ART. 4. Those who, in meetings or by means of the press, make public intelligence referring to affairs of the war which may disturb public order, shall be considered as auxiliaries of the Carlist rebellion, and shall be handed over to the permanent councils of war.

ART. 5. Those who infringe the proclamations of good order which, in the exercise of the powers conferred upon me, may be issued by my authority and by the military governors of the cities and provinces of my district, shall be also considered as disturbers of public order, and shall be handed over to the established councils of war.

ART. 6. Robbers to the number of three or more, and those who in the perpetration of any of the common crimes reserved to ordinary jurisdiction, may give occasion to the perturbation of public order, shall likewise be subject to my authority, and, consequently, their authors shall be subject to the judgment of the permanent council of war, imposing on them the penalties prescribed by the ordinances.

ART. 7. The authorities and employes of civil order who do not lend the aid which may be demanded of them by the military authority and the forces of the army, shall be dismissed from their office and employment and handed over to military jurisdiction, in order that they may be punished according to their deserts, considering them as aiders and abettors of the rebellion.

ART. 8. The civil and judicial authorities shall continue to exercise their functions in matters pertaining to their attributions, which may not be opposed to those reserved to my authority in the present proclamation.

ANTONIO DEL REY.

MADRID, July 19, 1874.

No. 567.

Mr. Cushing to Mr. Fish.

No. 66.]

UNITED STATES LEGATION,
Madrid, July 31, 1874. (Received August 24.)

SIR: Many indications exist of purpose, either formed or contemplated, on the part of some of the principal European powers, to intervene in the affairs of Spain.

Suggestions on this point arise out of the progress and incidents of the war raging in the northern and northeastern provinces.

It has come to be generally believed that this war is clerical in its causes and ultramontane in its tendencies. The success of Don Carlos, it is assumed, would in the first place be the re-establishment in Spain of the old authority of the Catholic clergy and the Roman See; it would promote the success of the same influences in France; it would tend to the political dissolution of Italy, and the restoration of the temporal power of the Pope in Rome and in the Legations; it would counteract and tend to defeat the measures of religious liberty initiated by the German Empire. Indeed, all these things are so closely connected in their essence, as to afford just cause of umbrage not only to Germany and to Italy, but also to Great Britain.

Much is said in this relation of the facilities and advantages which the Carlists enjoy in the south of France, owing to the prevalence of ultramontane and legitimist influences there, and also of the supposed biases in the same direction which prevail in the present government of France, either by reason of personal convictions on the part of the Marshal-President and members of his cabinet, or because of their solicitude to keep on good terms with the legitimist members of the Assembly.

Certain it is that Carlist officers and men, including the titular king and queen, come and go on both sides of the Pyrenees as they please, and maintain their principal seat of council or conspiracy at Bayonne in France.

It is understood that the present Spanish government has addressed to that of France the most earnest remonstrances on this subject, presenting, at the same time, a demand for large indemnities on account of imputed violation of neutrality committed or permitted by the local French authorities, and the consequent augmentation of the military resources of the Carlists and the prolongation of the war in all the region of country from Biscay to Valencia. At the same time, the principal newspapers of Spain, Italy, Germany, England, and many of those of the highest estimation in France, concur in loudly reprobating the policy pursued in this respect by the French government.

On the other hand, the French government, while contradicting the charges against it, pretends that it has on various occasions done acts of amity and good-will to the Spanish government, as, for instance, in the seizure of arms and munitions of war intended for the Carlists, in the restoration of the man-of-war *Numancia*, which escaped from Carthage with the principal Cantonalists on board, taking refuge in Algeria, and in the surrender of these Cantonalists to the Spanish government.

The French also assert that most of the foreign supplies which the Carlists receive are obtained by means of *British* vessels touching at the small ports on the coast of Biscay. There seems to be some truth in this; several such vessels are known to have aided the Carlists with munitions of war. Whether in these cases the expeditions originated

in mere commercial cupidity, or, as many say, in the religious sympathies of ultramontanes in Great Britain, the case of the Deerhound will be remembered in this connection.

I think it is undeniable, however, that the Carlists really do receive countenance, aid, succor, refuge, and supplies in the south of France, in such degree as largely to justify the complaints of the Spanish government. You may have had occasion to notice how positively and with what ample exhibition of details those complaints have been sustained by the "London Times."

Furthermore, the sanguinary and savage character lately imparted to the war by the Carlists has served to awaken, especially in Germany and Great Britain, decided sympathy for Spain. Thus, for example, one Carlist chief has seized and carried off hundreds of women, to be held as hostages, with expressed intention to shoot them if the Spanish government should undertake naval operations on the coast of the Gulf of Biscay. Another chief, by drum-head court-martial, condemned to be shot a considerable number of prisoners taken at Estella. At Uenca the most savage barbarities were perpetrated under the immediate eye and direction of Don Alfonso de Este and his wife, Doña Maria de las Nieves. Still later, a large number of prisoners of war have been shot at Olot. It is common for Carlist parties, half soldiers and half bandits, to seize on defenseless men and women in all parts of the country contiguous to the seat of war, and subject them to the worst outrages, including death. In general, the Carlists conduct the war as mere savages, destroying bridges, tearing up railways, blowing up railway tunnels, burning public and private edifices, destroying public archives, and, in a word, perpetrating every species of wanton depredation, apparently in the mere semi-insane spirit of devastation, and with no possible strategic or military inducement or object, so as to have well earned the name of *latro-facciosos*—robber partisans—with which name they are commonly designated at Madrid.

All these incidents are of a nature to have produced impressions in other parts of Europe prejudicial to the Carlists and favorable to the Spanish government; and these impressions seem to have been reduced to more definite shape by the preposterous cruelty of the Carlists toward two newspaper correspondents, one of whom, a German, was shot on the false charge of being a spy, and the other, an Englishman, was half murdered by long imprisonment for the awful offense of having an ounce of laudanum in his possession, which the Carlists in their wisdom assumed must have been intended wherewithal to poison Don Carlos.

A recent debate in the House of Lords testifies to the interest in the general subject entertained in Great Britain.

Confident rumors come from Germany that a German naval force is on the way to the Cantabrian coast of Spain. There will be nothing strange in this, seeing that Germany was far from quiescent during the period of the cantonal insurrection in Murcia.

It is also confidently said that the German government has just addressed a communication to the French government on the subject of its protection or tolerance of the Carlists.

Whether all these circumstances are to end in merely affording moral aid to the Spanish government, by that official recognition of it which has been withheld ever since the proclamation of the Spanish republic, or whether the great powers will go further and interpose in Spain by arms, as they have done twice during the present century, is the question which for the moment preoccupies all thoughts at Madrid.

The government of Spain would gladly, if it could, establish a *cordon*

militaire on the Spanish side of the Pyrenees; but to do this it would require a force of forty or fifty thousand men spread over a line of eighty or ninety leagues, subject, as it would be, to attack at any weak point by the Carlists; and the government has no such spare force at its disposition.

The various rumors of intervention may be resumed in the following forms, namely:

1. German ships to operate on the coast of Biscay and Guipúzcoa against the Carlists in the same manner as they operated a year ago in the waters of Carthage and Malaga against the Cantonalists.

2. Intimations directed by Germany to France, suggesting the inconvenience of her leaving her frontiers open to the Carlists and suffering them to convert French territory into an arsenal for the prosecution of war, a place of security in which to concert plans of conspiracy, and a neutral road of communication between different parts of the peninsula, by means of which to change their points of attack or escape encounter with the troops of the government.

3. Invitation directed by Germany to other European powers, suggesting consideration of collective action in order to put a stop to the violation of the laws of war by the Carlists.

4. Consultation among the principal powers of Europe to the end of the speedy official recognition of the present Spanish government.

5. Measures adopted by the Portuguese government to prevent the continuance of Carlist conspiracies within or on the frontiers of Portugal.

6. Projects of discussion concerning the civil war and political situation of Spain, in the diplomatic congress now sitting at Brussels.

7. Agitation in France on the immediate question of taking steps for the due observance, at least, of neutrality between the Carlists and the Spanish government, and on the general subject of the relations, actual and contingent, between Germany and Spain.

I will not venture to add any speculations on these points, contenting myself with calling your attention to the important bearing which the whole subject has on the future relations of Germany and France.

I have, &c.,

C. CUSHING.

No. 568.

Mr. Cushing to Mr. Fish.

No. 69.]

UNITED STATES LEGATION,
Madrid, August 6, 1874. (Received August 27.)

SIR: I forward herewith original and translation of a circular, addressed by the minister of state to the diplomatic representatives of Spain in foreign countries, and published this day in the "Gaceta de Madrid."

The opposition newspapers in Madrid, which are forbidden to publish military news, except such as may be derived from official sources, avenge themselves, for want of freedom in that respect, by incessant and not always candid criticism of the civil acts of the government.

They cavil more or less at the tenor and language of this circular; but the most serious objection they present is in the omission of Mr. Ulloa to avail himself of the occasion, as he might have done, to show

that the war in the northern and eastern provinces of Spain is the pivot of the ultramontane and absolutist intrigues, which now agitate so large a part of Europe, and which involve more especially the political condition of Germany, Italy, France, and Portugal, quite as much as that of Spain.

I have, &c.,

C. CUSHING.

[Inclosure.—Translation.]

Circular of the minister of state.

To the Spanish representatives abroad :

SIR: The character of cruelty which the Carlist rebellion has assumed for some time past, by acts, orders, and declarations of its principal chiefs, obliged the government to meditate profoundly in regard to the nature and extent of its duties in the difficult circumstances through which we are passing. The result of this meditation has been the rigorous dispositions published in the *Gaceta* of the 19th instant, in the preamble of which your excellency will find set forth the motives of justice and public welfare by which they were inspired.

None of them, however, overstep the bounds of proper and legitimate defense, nor are opposed to the elevated sentiments of a noble and generous nation.

Your excellency knows well, and Europe knows also, the unhappy and prolonged history of our civil war, reproduced five or six times in the period of forty years, as though unfortunate Spain were destined by fatality to pass periodically through a kind of bloody jubilee, by which she is consumed and ruined, detaining the progressive movement of her prosperity, which only asks for peace firmly assured to produce immense and beneficial results.

These diverse civil wars have been concerted by fanaticism linked with ignorance, under the shelter of our liberal institutions, to be born and developed later in the sad protection of the misfortunes of the country; at one time taking advantage of the moment of our army being found occupied in a foreign land, as was the case in the traitorous attempt of San Carlos de la Rápita; at another, availing itself, as in 1873, of the anarchy which consumed us and of the terror which had taken possession of the entire society.

What has perchance been forgotten by some, and it is convenient that it should constantly be kept in mind, is the absolute lack of reason and even of pretexts which Carlism now and ever has had, to place us in agitation and danger, to menace our political regimen after having unworthily used its benefits, and to dishonor us by the ferocity of its acts in the eyes of the world. That a permanent injustice, a law of races, inferiority of social condition, or other analogous causes, should incite the inhabitants of a territory to continual and never-extinguished rebellions, might be comprehended and explained. But can the sectaries of despotism allege these causes for rising in arms, when the very districts which are their cradle and center, without bearing any of the burdens, enjoy all the advantages of Spanish nationality? Or is it rather this exceptional position which, exaggerating their pride, induces them to look upon their fellow-citizens as pariahs? For there appears among us a singular, and what is more, a strange phenomenon. Here, it is the privileged party who rebels, and the party subjected to the common law who defends; here, the party who does not contribute, with person or fortune, to the maintenance of the state, is the one who angrily raises the black flag of a war unto death against him who constitutes the nerve and force of the nation, whose broad and generous flag gave, to both alike, peace at home, support abroad, security on the seas; here, in a word, a turbulent and blinded minority, disregarding their own interests, which are identified with peace, pretends nothing less than to impose upon us a depressive and humiliating system of government, which even they repel for themselves as incompatible with their immunities.

Such are the ideas generating this insurrection, which can be resumed in these two words: ingratitude and absurdity. Defense of the religion which the entire Spanish people profess and revere, has served at times as a hypocritical pretext for rebellion, and is also to-day invoked by fanaticism with more apparent fervor than ever. Miserable recourse, certainly, when it is thus employed under a regimen of religious tolerance, as it was employed formerly, when the Catholic worship was alone permitted, and the exercise of any other had in the penal code a severe sanction! Besides, to speak of religion and of its sublime precepts, and to see many ministers of the altar place themselves at the head of bands which sack and assassinate; to speak of religion and sacrilegiously profane its rites amidst depredation and massacre; to speak

of religion and to seize upon it as an instrument with which to satisfy revengeful and sanguinary instincts, is a contradiction more repugnant than the cynical ostentation of an unbelief which audaciously suppresses all morality and conscience.

Danger to the *fueros* has been at times the stimulus put in play to excite passions and to recruit partisans. This pretext would involve, at the present time, a notorious and scandalous falsehood, since neither Cortes nor governments have touched a single one of those privileges which the nation had allowed as a pledge of concord, even in the most rigid epochs of revolutionary movement. How this magnanimous conduct has been responded to, and how the especial situation of some exempt provinces has been justified, is clearly told by the struggle in which we are engaged, with which, doubtless, these favored districts repay our scrupulous respect for the pact of Vergara.

Even though the Carlist rebellion were not so unjustifiable in its origin, and so contrary to liberty and progress in its purposes, the iniquitous means resorted to would be sufficient to estrange from it the sympathies of all persons who cherish honorable sentiments, whatsoever be their political opinions. To demonstrate this we need not recur to party passion, nor to public rumor, nor to private news and correspondence. Draconian orders emanating from distinguished chiefs, manifestoes sent forth to Europe with inconceivable coolness to give notice of inhuman proceedings—horrible events which terror-stricken populations have witnessed—all concur to prove in an authentic and incontestable manner the truly savage character of the strife waged by those who call themselves sole defenders of the Christian religion. Our light forces fire a few cannon-shots to repel aggressions on the coast, or to prevent the landing of armaments, and the so-called commandant-general of Vizcaya imprisons children and women, declaring that for each projectile fired at the towns he will shoot one of his innocent hostages. The illustrious General Concha replies with a noble and humanitarian proclamation to the calumnious communication of the Carlist chief, and the latter decimates the prisoners of war, barbarously sacrifices a disarmed foreigner who in vain alleges his nationality and literary profession, and then announces (erel sarcasm!) to the civilized nations that hereafter he will give quarter to none. The horrors of Cuenca exceed description. Burning and robbing of houses and public edifices, sick persons thrown from the windows, assassinations in the streets—such are the scenes of that frightful drama, which lasted two consecutive days. All things were outraged there, including the dignity of a virtuous prelate. And this took place in the presence of a lady, a young princess, who is accompanied, as her ordinary cortège, by desolation and death. After these unheard-of crimes, there still come to our ears, from various and credible sources, tidings of another which surpasses them, and of the infamy of which we would save even our most bitter enemies. It is said in letters and newspapers, with minute details, and something of which has been communicated officially, that a large number of our prisoners have been immolated without pity at Olot, where they were found in deposit before the entrance of our troops.

The pen refuses to continue the narration of horrors of such magnitude, and there is not a Spanish heart but is oppressed with bitterness and shame in reflecting that their perpetrators are called Spaniards. And nevertheless I can assure your excellency that the picture is not overcharged; for exaggeration would be unbecoming in a government which respects itself when it makes certain accusations in official documents, nor have I proposed to myself to cite as example other than those events about which there is no room for the slightest rectification or doubt. Public opinion, represented by nearly all the authoritative journals of Europe, has energetically anathematized them, drawing a parallel, just and honorable to us, between the dignified attitude of the army and the barbarity of the insurgents. Seldom has such unanimity of opinion been observed, as well in Germany as in England, France, Italy, Belgium, everywhere, which reveals at the same time a tribute rendered to truth, and a protest in the name of outraged humanity, a great elevation and extension of views toward making that which we defend the common cause of all. Frequently has Spain been the theater of rude combats of this kind, the consequences of which could not be confined within the perimeter of her frontiers, and foreign elements, influences, and protections have rendered themselves to her fields of battle. Comparison of the necessities and the immense expenses of the present war, with the resources of the country dominated by Carlism, would be an indecipherable enigma, unless we were to seek its solution in the support, exertions, and intrigues of parties in affinity with it, which more or less secretly, and under various disguises and denominations, strive, now within our own territory and to-morrow perchance in another, to do away with the conquests of modern civilization and to resuscitate absurd systems, which have only been able to obtain a spark of vitality and of hope by the rebound of demagogic excesses.

To extinguish it entirely and forever are directed the efforts of the government and the sacrifices of the country, which has not placed in our hands dictatorship to ruin and exhaust it slowly, and which does not desire that, through ungratefully-received generosity, the evil which has been consuming us for half a century should fail to be thoroughly extirpated.

As your excellency will have observed, the measures to which I refer at the beginning of this letter, are those which necessity imposes in grave circumstances, having at the same time for object to restrain as far as possible the excesses of the rebellion, if their efficacy can accomplish so much. To take away, or, at least, to lessen the resources which party spirit furnishes to prolong and augment this fratricidal war; to exact a pecuniary responsibility in certain cases from those who have morally incurred it by their counsels and their incitements; to separate pernicious influences from the places where they prevail; to prohibit associations in which, under the shelter of expansive laws, hate, malevolence, anger, and all bad passions, have flourished in security, let loose to-day against the liberty of the country; to concentrate in the military authority governmental powers, as well to prevent disturbance of the public peace, as summarily and severely to punish it; such is the sum of the measures taken, and the tendency of those hereafter to be adopted, to suffocate in a brief period the absolutist insurrection. It is to be hoped that by these means, with the tried valor of our army, and with the manly impulse of the people which loves the institutions it has conquered, and which have been the most powerful cause of their advancement, we shall see the dangers overcome, and the fears dissipated, which are involved in a strife unworthy of our epoch and of our manners.

Fanaticism and despotism leagued together can never prevail in the Spanish nation, nor is their triumph possible, even transiently, when for generation after generation we have been combating them with such fervor and constancy. They may, perhaps, succeed, owing to the special conditions of certain districts where they seem to be enfeoffed, in shedding more blood than has been profusely poured out already in a hundred battles; in accumulating more ruins upon those which already bear witness to the fury of our discords. They may, perchance, go on, remorselessly provoking the indignation of the entire world with their outrages and their violences, and lowering to the level of the most savage tribes the noble and traditional character of this unhappy nation. All in vain! To-day, as in 1839, and as in 1849, the result will be in favor of right against injustice, of liberty against tyranny, of ideas which elevate and improve mankind against those by which it is oppressed and brutalized. We shall endeavor, moreover, that the painful experience of the past shall not be lost to the future, practicing more caution and prevision than did our fathers.

Fortunately, the opinion of Europe needs no rectification, being highly sympathetic with the principles which the government represents and maintains. But it appears to me appropriate for your excellency to bear in mind, in your official and unofficial conferences, the facts and observations thus set forth in order to define, in precise manner, the position which has been imposed upon us by the circumstances, and the true character of the war into which we have been so unjustly compelled.

By order of the President of the executive power of the republic, I communicate this to your excellency for your information, reiterating, with this motive, the assurances of my most distinguished consideration.

MADRID, July 29, 1874.

AUGUSTO ULLOA.

No. 569.

Mr. Cushing to Mr. Fish.

No. 71.]

UNITED STATES LEGATION,
Madrid, August 10, 1874. (Received August 31.)

SIR: I transmit herewith, in translation, extracts from a preamble and regulations published by the ministry of war in the "Gaceta de Madrid" of the 9th instant.

You will perceive by this that the government contemplates sending to Cuba a military re-enforcement of twelve thousand men, chiefly of the new levies.

Most of the regulations regard matters of detail only, which would be of no interest to the Department, and they are therefore omitted.

I have, &c.,

C. CUSHING.

[Inclosure.]

Extracts from preamble and regulations on the subject of re-enforcements for Cuba.

[Translated from the "Gaceta de Madrid" of August 9, 1874.]

MINISTRY OF WAR.—The country not only needs the concourse of all her sons to conclude the civil war which is causing so many and such transcendental evils in the peninsula, but it is also necessary to carry their co-operation to the island of Cuba, where another war no less sanguinary and cruel is desolating its fertile and rich settlements. The present captain-general has dictated and is carrying into execution most important measures to terminate at once the campaign and to restore the peace which that beautiful Antilla so much needs, to the end that it may develop the grand elements of wealth which it comprehends; but in order that those measures may be efficacious, and of immediate results, it becomes indispensable to carry there at once 12,000 men, who ought to embark in the briefest time. With the object, therefore, of collecting this number, the President of the executive power of the republic has been pleased to dictate the following rules:

1. As soon as the coming into quarters of the youths of the extraordinary reserve, decreed on the 18th of last month, begins, exploration shall be made among them, and before they are distributed in the battalions of their respective demarcations, as to the wish of those who desire to enlist to serve in the infantry corps of the island of Cuba.

3. The individuals who desire to enlist shall engage to serve in Cuba for the time that campaign shall last, and shall receive the bounty of 250 pesetas (\$50) for each complete year they serve in the said Antilla; which sum shall be delivered to them at the termination of each year, or, if they prefer it, when they are adischarged. Besides, there shall be delivered to them at once, in the act of enrollment, other 250 pesetas, (\$50;) and finally, there shall be given them 2 pesetas 50 centimos (50 cents) of daily pay, from the date of their ingress until that of their embarkation direct for Cuba. Said individuals may leave assigned to their families from 4 to 5 reals daily, (20 to 25 cents,) which will be collected through means of the general treasury of ultramar, in accordance with what has been heretofore practiced and is ordained in article 10 of the royal decree of October 2, 1872.

4. The war in that island terminated, an absolute discharge shall be given to the individuals of this enlistment who do not desire to re-enlist; they remaining free from the reserve service, even though they shall not have served the three years in activity prescribed in article 2 of the same royal decree.

12. Recruiting-lists also remain open in all recruiting-offices for discharged soldiers of the army and civilians who desire to enlist, whether they be subject or not to draft by the call for 125,000 men, with the understanding that those who are included in it, and shall be admitted for Cuba, shall provide substitutes should they be drafted in the quota of their respective towns; to which end the chiefs of each office will immediately communicate officially to the alcaldes of the same, with transmission of copy of their personal descriptions. The special recruiting-commissions will also admit individuals of both classes who present themselves to enlist if they possess the prescribed conditions; proceeding in the same manner as previously indicated in regard to civilians inscribed in the call referred to, who shall be drafted as soldiers.

13. Individuals discharged and civilians who may be admitted will have right to the same advantages prescribed in rule 3.

15 and last. Remain in force all other orders issued and which have governed in previous enlistments, as also those contained in the circular of October 31, 1872, and in the royal decree of the 2d of the same month and year, which will be applied and extended to the actual recruiting, except in such part as may be opposed to the rules dictated in the present provision.

By order of the said President I communicate it to your excellency for your information and consequent effects.

God guard your excellency many years.

COTONER.

MADRID, August 7, 1874.

No. 570.

Mr. Cushing to Mr. Fish.

No. 76.]

LEGATION OF THE UNITED STATES,
Madrid, August 14, 1874. (Received September 3.)

SIR: I beg to be permitted, in the light of the action of the several European powers in the matter of the recognition of the present Span-

ish government, to say a few words in review of the action of the United States in this respect.

When, upon the abdication of King Amadeo, the Cortes of Spain proclaimed the republic, that act was the signal and the occasion of the withdrawal of all the European powers, except Switzerland, from official recognition of the new government. To the United States, on the other hand, in common with Switzerland, this event was the inducement of specific recognition of the same new government.

It may be assumed that monarchical sympathies influenced this suspension of official relations on the part of most of the European powers, while republican sympathies influenced the United States and Switzerland in the opposite direction.

The United States continued their official relations with the new government, even after that, under the administration of Mr. Castelar, it had become a mere dictatorship.

It followed, as logical consequence, that the United States would continue such recognition, notwithstanding the substitution of the dictatorship of General Serrano for that of Mr. Castelar.

Moreover, to do so was in accordance with the established practice of the United States, as well in Europe as in America; that is, to recognize foreign governments by reason of the fact of their existence as such, and not merely by reason of any considerations of legitimacy or other political theory.

It gratifies me to perceive that the great European powers have at length come to perceive the wisdom of the rule of action in this respect so long and steadily observed by the United States; for the government of President Serrano is now identically what it was at the time my credentials were presented, and, in so far as any diplomatic question is involved, identically what it was when those credentials were signed by the President of the United States.

I think it is perceptible, also, if one may judge from the tone of recent discussions on the subject, that the general opinion of Europe now confirms the rule of action adopted by the United States.

If, on the other hand, the President of the United States had not addressed my credentials to the actual existing government of Spain, that is, if he had suspended recognition because of question of its legitimacy, we should have been placed in the predicament of now being called upon to follow the precedent of the governments of Europe, instead of acting on a sound theory of our own, long practiced and thoroughly congenial with the principles of our own Government.

The same considerations lead me to think that it was right on my part to wait for the return of General Serrano to Madrid, strengthened by the success of his operations in Biscay, instead of either committing myself prematurely at Santander, or hastening here to remain waiting for him in a condition still more anomalous than that of the half-representatives of the European powers.

I have, &c.,

C. CUSHING.

No. 571.

Mr. Cushing to Mr. Fish.

No. 77.]

LEGATION OF THE UNITED STATES,
Madrid, August 14, 1874. (Received September 3.)

SIR: I trust you will not consider me as acting officiously if I call your attention to the possible maritime complications which may arise

in consequence of so many foreign cruisers, German and others, being ordered to the Bay of Biscay.

If the purpose of the German ships, for instance, is to impede the landing of supplies for the Carlists, and they confine themselves to the jurisdictional waters of Spain, either within the limit of the old cannon-shot theory of one league, or even the new one of two leagues, in either case they will have to cruise on a very difficult coast, subject to much tempestuous weather and in close proximity to a lee-shore nearly destitute of lights, without which it is difficult to see how they are to effect anything; for although the larger ports of Guipuzcoa and Biscay are held by the government, yet many small ones, such as Burmeo, Lequeitio, Guetaria, remain in possession of the Carlists, and need to be watched carefully, provided it is intended effectually to prevent their receiving supplies of arms and munitions of war by sea.

Or, in the impossibility of acting very efficiently otherwise, will German or other cruisers venture to pursue or overhaul merchant-vessels beyond the jurisdictional waters of Spain?

It seems not to be amiss to remember that although the German naval officer who commanded on the Mediterranean coast of Spain during the insurrection in Murcia, has been acquitted of charges, yet his action off Carthagena was of a pretty positive character.

Without enlarging on the incidents of this question,
I am, &c.,

C. CUSHING.

No. 572.

Mr. Cushing to Mr. Fish.

No. 78.]

LEGATION OF THE UNITED STATES,
Madrid, August 15, 1874. (Received September 3.)

SIR: Since the date of my dispatch No. 63, of July 20, some military events of importance have occurred, which I proceed to communicate. During this period, until within a few days, there has been a relative cessation of active movements in Navarre, as well as in the Basque provinces; but the war has been prosecuted with exceptional activity by the Carlists in Catalonia, Aragon, and Valencia, in which provinces there are not only numerous detached Carlist parties in action, but a large force united under the command of Don Alfonso de Este, being the same force which took and pillaged Cuenca.

After the Carlists had left Cuenca they were pursued, overtaken, and defeated by troops of the government.

Meanwhile, at Olot, in Catalonia, where the Carlists had a depot of prisoners of war, the statement is constant, in various forms, that, as incidentally referred to in my dispatch No. 66, of July 31, a large number of prisoners have been shot in cold blood—one hundred and sixty, according to some accounts, and more than two hundred, according to others; but, as yet, no official report on the subject has appeared, and the exact details, including the number of men shot, are still a matter of uncertainty.

In consequence of the activity of the Carlists in the region of country historically known as the Maestrazgo, which occupies a large portion of the province of Castellon, one of the three provinces into which the old kingdom of Valencia is divided, a new army corps has been constituted,

entitled "the Army of the Center," at the head of which has been placed Lieutenant-General D. Manuel Pavia, who distinguished himself a year ago in the suppression of insurrections in Seville and elsewhere in Andalusia; and who, as captain-general of New Castile, was the immediate author of the establishment of the present government. Important results are anticipated from his well-known activity and courage.

In the mean time the Carlists have made two desperate but unsuccessful attacks on the city of Ternel, capital of the province of that name in Upper Aragon, and they have broken up all communication by rail in a large part of Catalonia.

It is understood that General Pavia has already entered upon operations against the considerable force of the Carlists now concentrated under the command of Don Alfonso de Este at Chelva, in the Maestrazgo.

Finally it appears that operations are about to recommence at Navarre, after several weeks of quiescence on both sides. The Carlists surprised and pillaged La Guardia, a small town within a few miles of the headquarters of General Zavala, the commander-in-chief of the army of the north, threw up fortifications at Oteiza, in advance of Estella, and pushed a column to Miranda de Ebro. On the other hand, the Carlists have been driven from Oteiza by a division of government troops under command of the captain-general of Navarre, General Moriones. And it appears that General Zavala has now moved forward to Miranda de Ebro. But there is no public information as to General Zavala's plan of campaign. Its importance, however, cannot be overestimated, for, if successful, he will undoubtedly break the force of the Carlists, suffering as they are for want of munitions of war and still more for want of provisions; and, on the other hand, if he should be defeated, we may expect of the Carlists an immediate irruption into the fertile fields of Castile.

I have, &c.,

C. CUSHING.

No. 573.

Mr. Cushing to Mr. Fish.

No. 83.]

LEGATION OF THE UNITED STATES,
Madrid, August 24, 1874. (Received September 16.)

SIR: There has been more or less discussion and conversation here, within a few days past, on occasion of a rumor started by the "Freeman's Journal" of New York, of the intended cession of Puerto Rico to Germany, and also of a rumor from other quarters of instructions in that respect to be sent by you to Mr. Davis and myself.

The statement of the "Freeman's Journal" is flatly contradicted here on the part of the government.

I take it for granted that the rumor is a pure invention, imposed upon the public through the press for the double purpose of exciting prejudice in the United States and annoying the Spanish government in reference to the political attitude lately assumed toward it by Germany.

The reasons which the German government has assigned for resolving to acknowledge the present Spanish government, and by moral influence at least to aid it against the Carlists, are sufficiently strong in themselves to justify such action without our looking behind public professions in quest of any minor inducements; apart from which, it would

be impossible for Germany to harbor any such inducement in view of the initiative which she has taken in the matter by her representations to other powers.

There is another rumor here touching Puerto Rico, which also seems to me to be false, to wit, that an expedition is being prepared at Aspinwall for the purpose of hostile attack upon Puerto Rico. I take it for granted either that the rumor of such an expedition is wholly unfounded, or that the suggestion of Puerto Rico as its object is intended to divert and distract the attention of the public authorities of Cuba.

No serious question exists at the present time between Spain and the colony of Puerto Rico, nor any indication of insurrectionary purposes there.

I shall have occasion to address to you soon a copy of regulations lately issued by the Spanish government for the completion of emancipation in Puerto Rico, together with some observations on the subject suggested to me by D. Rafael de la Labra, the efficient advocate in Madrid of emancipation in the Spanish Antillas.

I am, &c.,

C. CUSHING.

No. 574.

Mr. Cushing to Mr. Fish.

No. 84.]

LEGATION OF THE UNITED STATES,
Madrid, August 25, 1874. (Received September 16.)

SIR: Authentic intelligence begins to arrive of the extraordinary incident of the massacre by the Carlists of one hundred and ninety-three prisoners on the 17th of July last, at or near Olot, in Catalonia. These prisoners consisted of eighty-four *carabineros*, that is, custom-house guards, temporarily employed in military service, and one hundred and thirteen officers and soldiers of regular troop. They were a portion of the prisoners belonging to the column of Nouvilas, defeated some time ago by the Carlists, and who since that time had remained in depot at Olot.

Intending to attack the town of Puigcerdà, it seems to have been thought convenient by the Carlists to murder these prisoners, in order to save the trouble of guarding them.

In the first place, the prisoners were conducted to a village called Valfogona, where it was determined to shoot all the *carabineros*, without exception, and a fifth part of the residue of the prisoners. After that, on arriving at the cemetery of Llayers, the *carabineros* were tied in couples back to back, and then marched into the cemetery, and there shot, and buried indiscriminately in a trench dug for that purpose.

The soldiers were then marched in the direction of the town of San Juan de las Abadesas, and, being in like manner tied in couples back to back, were marched into the cemetery, there shot, and buried in a common trench.

The most naked possible statement of the facts exhibits an act of atrocity unparalleled in modern warfare, and many circumstances are narrated which add to the horror of the incidents.

The Carlist officer by whose order the massacre was committed bears the name of Saballs, and the officers under whose immediate superintendence the massacres were committed bear the names of Federico

Brú and Bosch de Llers; and names, which might otherwise pass unnoticed, deserve to be remembered as objects of infamy.

It is one of the singular incidents of this horrible transaction that thus far no official report on the subject has been made public by the government.

I have, &c.,

C. CUSHING.

No. 575.

Mr. Cushing to Mr. Fish.

No. 85.]

LEGATION OF THE UNITED STATES,
Madrid, August 25, 1874. (Received September 16.)

SIR: The navy of Spain, as it appears on paper, is large and powerful.

The rates and classification of the vessels, set forth in the *Guia Oficial España* for 1873-'74, are as follows:

1. Vessels of the first class: iron-clad frigates, 10; screw-frigates, 10; side-wheel steamers, 2.

2. Vessels of the second class: side-wheel steamers, 10; screw-steamers, 9; screw-transports, 2.

3. Vessels of the third class: screw-steamers, 48; side-wheel steamers, 7; screw-transports, 4; vessels unclassified, 5; sail-transport, 1; pontons, 2; screw-gunboats of one gun each, 18.

Although the nominal force is thus formidable, it would appear that the available force is relatively small.

I inclose translation of explanations on this subject, which appeared originally in the "*Diario Español*," but which have been adopted and commented upon in most of the other journals of Madrid.

If not interesting to you, it may be to the Secretary of the Navy.

I have, &c.,

C. CUSHING.

[Inclosure.—Translation.]

[Extract from "*La Epoca*" of August 24, 1874.]

We have at Tangiers the frigate *Navas de Tolosa*, a vessel of 600 horse-power, with 48 cannon, whose mission is to be at the orders of the minister plenipotentiary of Spain for the eventualities of the insurrection of the *Kabilas* there against the Sultan. The nation is seen worthily represented alongside the vessels which have gathered in that roadstead for the protection of their respective citizens, and all admire the discipline, the neatness, the order which reign on board the frigate, and the subordination of its young and fine-looking crew. It is the only respectable vessel of those we count in service in the Mediterranean.

The *Cadiz* is at *Barcelona*, an old side-wheel vessel of 500 horse-power and 16 cannon, which, more than to guard the coast, is used as a transport, forming, with the *Diana*, a sloop of three cannon and 160 horse-power, all the naval force which the superior authority of *Catalonia* has at his disposal. Our readers will comprehend how necessary would be a vessel at *Tarragona*, another at *Rosas*, and a division of gunboats in the mouths of the *Ebro*; as it is an affront that the rebels should impede navigation as far as *Tortosa*, and, with two or three bad launches off the *Cape of Oropeza* and the *Columbretas*, that they should keep *Peñíscola* blockaded, and cruise along the coast as far as *Amposta* and the *Alfaques*.

At *Valencia* we have the *Colon* and the *Lepanto*, both side-wheelers, the first with six cannon and engine of 350 horse-power, and the second with two cannon and engine of 200 horse-power. The latter is of little use, as she combines poor seagoing qualities with very slow speed, the *Colon* being also slow. The coast from *Castellon* to the *Gulf of San Jorge* being dominated by the *Carlists*, another class

of vessels, which we have not, was indispensable, in order to be constantly lending protection to the coastwise traffic, and preventing contraband of war and of clothes and tobacco, which is carried on through Vinaroz, Benicarló, San Carlos de la Rápita, Ampolla, Atmella, and other places on the coast.

The San Antonio is at Alicante; a small transport of 600 tons and 90 horse-power, built to carry the mail to Fernando Póo and now turned into a cruiser, to the discredit of our honor before foreigners, who see that we make use of such vessels for purposes of war; although it is true that we have the tow-boats of Ferrol firing upon Zaranz and other points of the Cantabrian coast.

At Carthagena, a naval station, there is on service the mystic Isabelita, which is a transport much smaller than many of the launches carried now-a-days by iron-plated vessels. To place this little boat in the squadron of our forces in the Mediterranean is somewhat ridiculous.

The Liniers, at Almeria, we presume is destined for the prevention of smuggling, although also of little use for this purpose, as it is a small side-wheel steamer, with two cannon, and of 147 horse-power; slow, twenty-eight years in service, and with very old engines. We can say the same of the Alerta, which is at Malaga, of less power and more years than the former, with two cannon, and very slow. The Vulcano is at Cadiz, a side-wheel steamer, built in 1846, of 200 horse-power and six cannon, destined, we believe, to the prevention of smuggling; for as a vessel of war she is worthless.

If from the south we pass to the north, we observe that all the means of vigilance of which we have been able to dispose, for a coast so extensive and of such special conditions as the Cantabrian, are reduced to the schooners Consuelo and Prosperidad, of two cannon each, the first with engine of 200 and the second of 80 horse-power; the Leon, with side-wheels, of 230 horse-power, engines very old, and of little speed; and the gun-boats Gaditano and Ferrolano, and some other little steamboat armed for war. These are all the vessels which have to guard an extensive hostile coast, by which the Carlists have received so much help for a year past.

Neither the iron-clad frigates which we count, nor the magnificent ones of wood which we possess, can be employed at the north for what we need there. The Blanca was for a few days between Santander and Portugaleta, and was obliged to go to Ferrol to save herself from shipwreck. Another class of vessels is needed for such cruisers, but unfortunately we lack them, after having spent in the increase of the navy fabulous hundreds of millions, (rs. vn.) The same happens to us in Cuba and the Philippine Islands, notwithstanding the sadly-celebrated gunboats which were built in the United States, and are to be found almost useless at the arsenal of Havana.

No. 576.

Mr. Fish to Mr. Cushing.

No. 61.]

DEPARTMENT OF STATE,
Washington, August 27, 1874.

SIR: I acknowledge the receipt of your interesting dispatch of the 30th ultimo, No. 66, in relation to the possibility of European intervention in the affairs of Spain. It confirms accounts which have reached this country of atrocities in warfare which seem incredible in the nineteenth century, which are without excuse or palliation, and a continuance of which would be degrading to human nature.

I am, &c.,

HAMILTON FISH.

No. 577.

Mr. Cushing to Mr. Fish.

No. 86.]

LEGATION OF THE UNITED STATES,
Madrid, August 27, 1874. (Received September 16.)

SIR: The recent conscription in Spain is now substantially completed, and, according to current calculations, will yield an additional force of at

least 60,000 men for the army. It will also yield to the treasury at least 300,000,000 of reals (\$15,000,000) on amounts paid for exemption. Contrary to expectation, the levy was effected in Madrid without the least violation of public order. Occasional disturbances occurred in some of the provincial cities and country populations, but mostly of a very trifling character, and none of very serious nature, except at Granada, where the Internationalists seized on the occasion to make a transient manifestation.

The Carlists exerted themselves to interrupt the conscription in districts of the country open to their incursions, but without producing any serious effect.

Since my last reference to this subject the only very important military occurrence has been the capture by the Carlists of the town and fortress of Seo de Urgel, on the Catalonian frontier of France. By this capture the Carlists will have obtained possession of a considerable amount of guns, munitions of war, and other military supplies; and also of a very advantageous military position in Upper Catalonia.

In Valencia, Aragon, and Catalonia, as well as in Navarre, the Carlists continue to range the country at will in all directions, attacking occasionally some of the secondary cities, which, with all the large ones, maintain adhesion to the government. Of such attacks the most serious is that now being made for the second time on Puigcerdá.

Similar attacks on other places have been repelled by the inhabitants and the forces of the government.

In most cases where the Carlists make such incursions or attacks they do not act for the purpose of retaining possession of the places assailed; but, in the first instance, in order to make forcible levies of provisions and money, and, in the second place, to burn, waste, and destroy.

In all quarters, wherever they have opportunity, they take special pains to burn and destroy the civil registers and archives of the little villages and hamlets subject to their inroads.

From an early period in the civil war they have exhibited a singular hatred of railroads, which, at the outset, they destroyed without any strategic purpose, and in the mere spirit of devastation. Thus it was that, at an early day, they blew up the bridges and tunnels on that portion of the Northern Railway, so called, which extends from Miranda de Ebro, by Vitoria, Alsásna, Toloso, and San Sebastian, to Irún; that is to say, lying almost entirely in their own country of Alava and Guipizcoa.

At that period, also, they interrupted, from time to time, but capriciously and without system, the railroads in Catalonia and Valencia.

Thus it was that at the time of my coming to Spain traveling by railroad from Irún to Miranda de Ebro was impossible; and it was subject to frequent interruption in Catalonia, Navarre, and Valencia.

But the Carlists have recently entered more systematically upon the enterprise of destroying railroads, in the purpose of cutting off communication between Madrid and all the great northern, northeastern, and eastern provinces of Spain.

Thus, at the present time, the railroad from Miranda de Ebro to Irún no longer exists; that from Tafalla to Pamplona, and from Pamplona to Alsásna, has ceased to be practicable. The same may be said of the railways from Valencia to Tarragona, from Lérida to Barcelona, from Barcelona to Zaragoza, and from Barcelona to France.

And the same, also, of the road from Valencia to Játiva, and even beyond that in the direction of Madrid; for, by means of their strength in the Maestrazgo, the Carlists are able to cut this road when they please

at its junction with the road from Alicante to Madrid. Thus it happens that the governor of Barcelona, having occasion just now to come to Madrid, was constrained to proceed by water to Alicante, and then was stopped by the blowing up of a bridge at La Encina, on the road to Madrid. Books from Washington for this legation now have to go by rail from Paris to Marseilles and thence by water to Alicante.

Recently many miles of the railroad connecting Madrid with Zaragoza, namely, the space between Arcos and Medinaceli, has been broken up by the Carlists, and they have made more than one movement against that portion of the Northern Railroad which leads from Madrid to Santander, and constitutes the only means of approximate communication with France.

Meanwhile the bulk of the army, under command of General Zavala, continues to be passive, no important movement in that direction having occurred since the engagement between General Moriones and the Carlists, at Oteiza, and the victualing of Vitoria by General Zavala. And, at the same time, detachments of Carlists seem to cross the Ebro when they please, to make incursions into Old Castile, for the purpose of ravage and plunder, as in the case of a recent attack on the considerable town of Calahorra.

It may be that General Zavala is preparing for some great military movement, and it is suggested that he is awaiting the advance of General Pavia through Aragon. However this may be, certain it is that the contrast between the universal activity of the Carlists and the apparent inaction of the forces of the government tends to diffuse a general feeling of discouragement, not in Madrid only, but in other parts of Spain.

I have, &c.,

C. CUSHING.

No. 578.

Mr. Cushing to Mr. Fish.

No. 98.]

LEGATION OF THE UNITED STATES,
Madrid, September 16, 1874. (Received October 5.)

SIR: The following is the text of a telegram which I had the honor to send to you at 11 o'clock this day:

FISH, *Secretary, Washington*

Minister of state authorizes assurance that story of contemplated transfer of Puerto Rico to Germany is utterly destitute of truth, either in fact or intention.

CUSHING.

MADRID *September 16.*

Permit me to add a brief explanatory commentary.

My dispatch No. 83, written soon after the arrival here of telegraphic repetition of the statement contained in the "Freeman's Journal" of the intended cession of Puerto Rico to Germany by Spain, referred briefly to this subject, reporting contradiction of the rumor on the basis of unofficial information. But on the arrival here this week of newspapers containing the detailed statement, with extracts of pretended diplomatic communications on the subject, it seemed to me that you would approve my going so far as to obtain direct, official, and authoritative contradiction of the statement. I accordingly called on the minister of state yesterday and presented the subject to him in such terms as to invite him to make such explanations if he might see fit. Mr. Ulloa re-

sponded promptly and positively that not only was the whole story false in substance and in detail, but that to the contrary of so many newspaper stories, which have in them an atom of fact upon which to raise a great structure of falsehood, the present statement did not possess even that exceptional atom of fact, but was in its entirety destitute even of a shadow or pretense of foundation. He added that the alleged letter of Admiral Polo de Bernabé having just come to his knowledge, he had caused Admiral Polo to be notified thereof, in order that the latter might in his own person expose the falsehood and the fabrication.

I have, &c.,

C. CUSHING.

No. 579.

Mr. Cushing to Mr. Fish.

No. 104.]

LEGATION OF THE UNITED STATES,
Madrid, September 22, 1874. (Received October 17.)

SIR: I inclose herewith original and translation of a communication addressed by Admiral Polo de Bernabé to the newspaper published in this city entitled "El Gobierno," in which he emphatically declares the forgery and falsehood of the correspondence on the subject of Puerto Rico attributed to him by the "Freeman's Journal," of New York.

I have, &c.,

C. CUSHING.

[Inclosure.]

[Translated from "El Gobierno."]

Rear-Admiral Polo has addressed the following communication to "El Gobierno:"

VALENCIA, *September 17, 1874.*

Messrs. Editors of "El Gobierno:"

DEAR SIRS: In this city, where I am casually, I have received some slips from the American newspapers, the "New York Herald" of the 18th and 21st of August last, in which I have read with surprise and disgust, that the periodical, also of New York, the "Freeman's Journal," has had the audacity to suppose the existence of some dispatches from the minister of state, addressed to me in the beginning of April last, in regard to the cession of Puerto Rico to the German Empire in exchange for assistance in combating Carlism.

The "Freeman's Journal," not contented with this absurd invention, inserts, moreover, the dispatches which it supposes I addressed in reply to the minister of state.

Notwithstanding that such inventions merit only contempt, and notwithstanding my repugnance to condescend to contradict calumnious falsehoods, I wish to state, over my signature, that the existence of all the dispatches which the Freeman's Journal has had the audacity to invent is a downright falsehood, as is also that I resigned the office of minister plenipotentiary of Spain, at Washington, since my recall from that post responded to reclamation of my services for the navy from the minister of marine.

All that the "Freeman's Journal" has published on the subject referred to is a tissue of absurd and despicable calumnies; and it will be so judged by all who know the national sentiment of Spain, and the zeal of the Spanish government for the honor of the country.

I beg you to be pleased to insert these lines in your estimable journal, and anticipating my thanks to you therefor, I offer myself as your attentive servant, Q. B. S. M.

The rear-admiral,

JOSE POLO DE BERNABÉ.

No. 580.

Mr. Cadwalader to Mr. Cushing.

No. 76.]

DEPARTMENT OF STATE,
Washington, October 7, 1874.

SIR: With reference to your dispatch No. 98, of the 16th ultimo, relative to the alleged transfer of Puerto Rico to Germany, I have to state that your action in regard to the matter, as therein set forth, is approved.

The Department has never placed any faith in the rumors regarding the alleged transfer.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 581.

Mr. Cadwalader to Mr. Cushing.

No. 78.]

DEPARTMENT OF STATE,
Washington, October 20, 1874.

SIR: Your dispatch No. 104, of the 22d ultimo, inclosing a printed copy and translation of a communication addressed by Admiral Polo de Bernabé to "El Gobierno," (a newspaper published in Madrid,) in which he pronounces the correspondence on the subject of Puerto Rico, attributed to him by the "Freeman's Journal," a forgery, has been received.

The letter of Admiral Polo had already appeared in the public prints in this country, and will finally dispel any possible question on this subject. The publication in the "Freeman's Journal" has attained a notoriety hardly justified, considering its source and foundation.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 582.

Admiral Polo de Bernabé to Mr. Fish.

[Translation.]

LEGATION OF SPAIN IN THE UNITED STATES,
Washington, February 19, 1874. (Received February 19.)

The undersigned, minister plenipotentiary of Spain, has the honor herewith to transmit to the honorable Secretary of State of the United States a translation of the memorandum which the executive power of the Spanish republic addresses to foreign powers.

The undersigned avails himself, &c

JOSÉ POLO DE BERNABÉ.

[Inclosure.—Translation.]

MINISTRY OF STATE.—CIRCULAR.

The government constituted at Madrid on the 3d January, unreservedly accepted by the country and being vested by the very beginning with the fullness of power, after explaining its origin and its purpose, considers that the wished-for occasion has arrived for addressing itself to foreign nations and frankly laying before them the real nature of the circumstances from which it sprang into life, the political creed that is embodied in its component members, and the views that in the future will determine its policy.

The lamentable series of events, which, although varied in their nature and apparently contradictory at times in their outward manifestations, were logical nevertheless in their occurrence, however painful in their significance, have brought agitation and bloodshed to Spain from the abdication of her last sovereign, are perfectly well known to the world. In the present close communion of interests and intellectual intercourse between one nation and another, doubtless there has been felt abroad, just as has been our experience in past times, the commotion of that strife and of those catastrophes that seem to have been imposed upon nations as their highest teaching and as a necessary element in the purification of modern liberty. Disasters and disturbing agencies that in Spain have altered the serene and majestic course of a revolution effected without bloodshed, unanimously hailed and respected by the country, happily established on the most exalted conceptions of public law, accepted with rare benevolence, and ere long acknowledged in the person of its chief magistrate by the principal governments of Europe and America.

Amidst the wars and calamities that, like a fatal procession, followed on the resolution of the last king, and for a long time weighed heavily on our country, the powers of Europe, fearful, perhaps, lest the sparks of our conflagration should fall in their midst, have had an opportunity of observing that neither the quietude and repose characteristic of slavery, with which, on the one hand, the partisans of absolutism endeavored to allure us, nor the gratification of gross appetites and of sinister or brutal passions, with which we were tempted on the other, by demagogism, were ever able to array our citizens and the diverse classes of our society in renunciation of that constitutional liberty they had so gloriously conquered, or of those guarantees of order and stability which were to be found in the new institutions.

With almost every ship in traitorous hands, the strength of the army gone, owing to a want of discipline hitherto unparalleled in the history of Spain, our towns dismantled, and our fields laid waste by the very soldiers and sailors who ever were the shield of our protection, an example for others, and the just pride of the country; our national unity, which our forefathers had so laboriously consolidated, threatened with dissolution; the public credit annihilated; the partisans of absolutism, who have ever taken courage with our misfortunes, elated at sight of so many untoward complications; all the powers maintaining an attitude of reserve, and some of them putting aside indifference only to frame resolutions indicative of prejudice or apprehension; property assailed, and every interest alarmed; religion outraged and persecuted; the very existence of family relations publicly lowered and reviled; the eternal foundations of human society clamorously discussed and impugned, with doubt in every mind and anxiety in every breast, the Spanish people still had secret hopes of salvation, and, by a mysterious intuition common to her most eminent sons, trusted yet to recover strength and peace without sacrificing those liberties they have for a long time enjoyed, and without forever yielding the progress gained during the last years and lately turned from its rightful channels by ignorance or by perfidy. Such are, briefly narrated, the features of the vital crisis we have passed, and which it was important to set forth with scrupulous fidelity, for only thus can other governments clearly understand the events we have reviewed and fully grasp their import.

The Spanish nation, suddenly left without the means that avail to defend and balance the social organisms; unexpectedly deprived of those institutions that assure her existence and assist her development, has for a long time striven to regain possession of herself, to slowly reconstitute the shattered economy of her system, and to free herself with as little violence as possible of such as have abused her patience by covering our soil with ruin and bloodshed, of such as were but recently endeavoring to bring about anarchy and dissolution with their unsuccessful theories of federalism, and of such as in the northern part of our country wish to suppress dangerous movements by condemning us to perpetual immobility and stifle imprudent manifestations by imposing eternal silence.

In order to achieve this great and primary object, public opinion, solely intent on the liberation and reconstruction of the nation, assisted every effort, ingeniously devised every combination that through peaceful means was calculated to restore the country to herself, and accepted with approval, or possibly sought indirectly, the efficient co-operation of those very persons who were previously leading her to ruin.

Thus, when in September last the federal Cortes agreed to suspend their deliberations, granting to a government which was also federal dictatorial and saving powers, the greater part of our citizens and the majority of our parties sincerely concurred with the decision of that assembly, forgetting their origin, generously ignoring the senseless fancies and the suicidal exclusivism of a parliament only distinguished by the dangers it had created, and by its persistency in preventing, through arrogant self-conceit, the restoration to order and tranquillity demanded on all sides. More unanimous and more expressive, if not more noble and disinterested, was the enthusiastic adhesion given by all parties and classes of our society to aid in the work of reconstruction of that illustrious statesman who, mindful of the lessons of a painful experience, renounced with noble sincerity and heroic patriotism the most utopian dogmas of his school, and received at the hands of the last Cortes a dictatorship inevitably condemned to be a mockery and a delusion, or to display its power against the very body by whom it had been conferred.

From the moment that Spain was able to measure the scope of that power and appreciate the loyalty of those whose mission it was to wield it, public sentiment, the press, all the vital energies of the nation gave public adhesion and support to the government, which by its manifestations became the exponent and director of aspirations common to all, and gave a character of irrevocability to the decision at first adopted by the Cortes only as a temporary measure. By the full import of that measure, the Cortes engaged themselves, before Spain and the civilized world, to carry out the fruitful mission which although late, they had taken unto themselves, or else perish divorced from their country in presence of the outburst of national feeling, inasmuch as if, in the practice of nations more free than ourselves, and more advanced in progress, there are certain principles which, by common consent, are never discussed, and are considered as immutable truths which it is not lawful to impugn; with more reason should such decrees and deliberations be considered final among us, as were intended to effect the re-organization of our army and navy, the re-establishment of the rights of property, and the preservation of national unity.

Spain, nevertheless, waited still. Only after the Cortes had resumed their labors, when by the first vote they desisted from their projects of restoration, and again jeopardized by the strife of their imbibed passions the most fundamental institutions and the integrity of the country, and in the decomposition of the same assembly the triumph became visible, which three months previous had been anticipated, of ill-restrained demagogism, and the country was being dragged to that ruin to which the parliament seemed to be blindly and persistently leading it. The garrison of Madrid, with wonderful prevision seized the moment for interference, rightly interpreting the wishes of the army, the navy, and the whole country, thereby saving in a few hours the life and the honor of the nation.

The executive power of the republic which was established in Madrid on the fourth day of this month, under the presidency of General Serrano, is the result and the expression of that necessary and solemn act.

It is thereby apparent that there can be no similarity between this government and those which in former times has been brought forth by *coups d'état*, and how futile would be any comparison instituted between the patriotic act accomplished by the garrison of this capital and those recorded in the pages of history in older times and for other purposes.

The new executive power was created in order to satisfy the instinct of self-preservation which at a critical moment inspired public opinion and the army; it was formed in presence of a committee, in which were represented all those liberal factions unwilling to add their share to the already long series of conflicts and disturbances, and uniting in its composition the two parties having the most direct and active influence in the revolution of September.

In spontaneous accord with its origin, in obedience to the force of circumstances, and strictly limiting the changes which necessarily followed their advent into power, as was required by the uncommon gravity of this historic moment, the executive body maintains the constitution of 1869, with the suppression of the article which was canceled by the abdication of the last king. It preserves in the organization of the various powers of the state the form it found there established, and it continues the dictatorship which but a few hours before had been exercised by a ministry named by the Cortes, with this advantage, that the present government, free from pressure and untrammelled by parliamentary veto, is in a position to utilize immediately all the means with which it has been invested with a firmer purpose, with more rapid and energetic counsel, and with a stronger and more persevering hand, until the civil war shall have been terminated and the turbulent passions of demagogism completely subdued. Public opinion, which will then have cast off the vague uneasiness produced by rebellion, and the imposition which up to the present has been forced upon it by armed multitudes, will have free expression through the ballot-box; the nation, represented in the Cortes, will fill the void in our institutions produced by the voluntary renunciation of the monarch; will suggest such reforms in the constitution of the state as the painful

lessons of these recent times shall have shown to be expedient or necessary; will readjust the somewhat worn mechanism of power, and by developing the strong vitality which is characteristic of free peoples will surely avoid, as is from this moment the firm resolve of executive power, the slightest cause of apprehension in reference to Spain on the part of other countries.

The unanimous adhesion given by the army to the saving act of the garrison of Madrid, and that which was subsequently expressed by all the towns and the great majority of the authorities holding office under the previous ministry, sustained from the very first the government in this hope, and afforded inestimable proof of the confidence of the country.

The rapidity with which new attempts at federal insurrection were suppressed, and the facility with which the communist flag was lowered, that flag that behind the formidable walls of Cartagena had for months been a cause of anxiety to Spaniards and of scandal to every civilized nation, should now be viewed as still more interesting results and the true justification of the new political situation.

The executive power of the republic, thus hailed and accepted by all peaceful citizens, rather as a spontaneous expression of the national want than as a result of partial efforts, will carefully endeavor to deserve and preserve the singular confidence which has been placed in it. Identified with the revolution of 1868, it will maintain, in the region of government, the political significance of that glorious uprising, under the protection of which, and by whose development, the men who to-day form the government obtained for constitutional Spain the friendship and the consideration of all nations, and gave to the various powers of Europe and America the respect and the reciprocity to which they are by so many reasons entitled.

Assembled and united to-day on the basis of a democratic code in that constitution, in its faithful observance, in the enjoyment of the liberties which it concedes, and above all in the strict and vigilant use of the guarantees with which it surrounds the cause of order, will be found the political guide of the Spanish government at the time when the embarrassment which it hopes to suppress shall have ceased to exist. But the government is conscious that, under these critical circumstances, and, as a general rule, in periods of transition common to all countries, when the limits marking political divisions become fainter, when the accumulation of events obliterates the confines of party, and rapid change of sentiment prevents the establishment in public opinion of visible and permanent boundaries, then the standard by which men and governments are to be judged is as much the result of their acts as of their previous aspirations; the use made of authority and the practical means to which it appeals are as important to determine a political character, as the declaration suggested by patriotism, the series of measures, and the sum of its antecedents, are no less significant of the purpose of the government than its known principles or its ultimate ideals. And in the light of these views the executive power, which at the time of its formation patriotically seized a dictatorship, willingly assumes before the various powers, as it will one day justify itself before the country, the representation of that fundamental act, and the energetic means by which it has endeavored from the moment of its birth to deserve abroad the cordial friendship of all nations, and to preserve at home against all hazards the integrity of the soil, order, and liberty.

Madrid, January 25, 1874.

PRAXEDES MATEO SAGASTA.

True translation :

JOSÉ POLO DE BERNABÉ.

No. 583.

Señor Ulloa to Admiral Polo de Bernabé.

[Received from Admiral Polo, June 23, 1874.]

[Translation.]

No. 47—Circular.]

MINISTRY OF STATE,

Madrid, May 22, 1874.

SIR: I send to your excellency, inclosed, the manifest which the new ministry has just addressed to the country, wherein it explains its present designs and its aspirations for the future.

In order to leave no doubt as to the views of the government, I think it my duty to give your excellency an idea of the spirit which actuates it in its international relations, as well as of the opinion which it has

formed of the peculiar position in which recent events have placed it toward foreign powers, hoping in both cases that its silence may not be improperly interpreted, and that malice may not distort its honest purposes.

After a long period of struggles and convulsions, Spain finds herself to-day in a position of such difficulty that she needs to concentrate within herself all her strength, and to attract towards her internal situation all the thoughts and all the energy of the national power, in order to return, free from fears, violence, and wars, to the solemn exercise of her sovereignty, and to reach a decision, from which there shall be no appeal, in relation to her future destinies. That time was thought to be remote, when, the army being broken up or without discipline, the principle of authority lying prostrate, important provinces and towns being a prey to Carlism and anarchy, all bonds being broken, all guarantees trampled under foot, the nation being devoured by factions and the government by impotency, the time-honored and firm union of our country seemed on the eve of dissolution. Since, however, thanks to the energy of the ministries who have preceded us, and in presence of the danger which threatened society at large, an act of manliness, forged in the indignation and the shame which possessed the country, rather than imposed upon the country, dislodged the Cantons at Cartagena, their last stronghold, and put an end to the mad hopes of the absolutists in the mountains of Somorrostro, the cause of order and liberty made sure of its final triumph at no distant day, demagogism was forced to lower its black flag, and the fanatics of the past no longer influenced even the weakest minds by means of those fears and discouragements which were never shared by those who, knowing the vicissitudes of our history, well knew that the vitality and perseverance of the Spanish people increase and are strengthened with their misfortunes.

Not because we have sensibly improved our internal regimen, can we or ought we to refuse to give our constant attention and efficient action to the international affairs which occupy the attention of foreign cabinets at the present time, nor will be induced to abandon our modest attitude by those who, with arrogant pretensions, place before us the glorious recollections of our ancient power. Only on the improbable, inadmissible hypothesis of our legitimate interests being disregarded, of an insult being offered to the national honor, or of the integrity of our territory being threatened, would we abandon this attitude, and would then take counsel only of our patriotism, in order to defend our rights with the aid of God and the efforts of this generous nation.

The present cabinet, which lives in communion with the great ideas of modern times, the expansive spirit of which has frequently burst the narrow mode of ordinary customs, hopes to secure the official confirmation of the friendly understanding which it maintains with other cabinets, not by sacrifices of its dignity, which it could not honorably make, but by intrusting the realization of this desire to the importance and significance of our own acts, and perhaps it would not say too much should it add, to the justice and sense of propriety of foreign powers.

We are united to them by the strongest political bonds, which neither intrigue nor ambition can loosen, and which bid defiance to traditional suspicions and antipathies; they are bonds, in a word, which are formed by mutual interest and by common danger.

With statements apparently diverse, identical problems present themselves to the civilized world for solution, problems which involve, for the march of statesmanship, the same obstacles and the same complications. The annihilation of distances, the prodigious increase of com-

merce, the constant communication of nations, the cosmopolitanism of thought, the similarity of representative institutions, everything, in a word, combine to universalize impulses and resistances, and to establish the solidarity of governments.

Some measure the importance of conflicts by the importance of the locality in which they occur, and view them with a certain indifference, and consider them as altogether extraneous on account of their not closely and immediately affecting the interests which *they* represent and defend, as if isolation were not possible, and contagion were not inevitable.

There, where the combat is waged in behalf of social order against anarchy, in behalf of the conquests of modern law against the exhumation of decrepit systems, there are, there must be, at least the sympathies of prudent and judicious powers, which are guided by the principles of a sound policy and of a well-regulated selfishness.

But a few months since, Spain was sustaining three civil wars, not provoked by any injustice, but engendered by the heat of bad instincts and lamentable excesses: one in Cuba, where it is sought to wrest from us, the discoverers and civiliziers of America, that last bit of soil, in which we are battling, not for our prestige, not for our influence in the New World, but for our honor, which we must leave to history untarnished; another in the Basque provinces, which are trying to resuscitate a cause that was lost forty years ago; and finally, the federal insurrection, now crushed, which dared to lift its parricidal hand against the immutable nationality of Spain, which has been cemented by the blood of a hundred generations. Two of these wars are still raging upon our soil, cutting off the flower of our youth, and calling for great and painful sacrifices on our part, while the elements which produced the third, still agitate themselves in the bosom of our disturbed society, scandalizing both natives and foreigners.

Not only is Spain interested in the issue of these contests; Europe, tranquil and prosperous, while we are exhausting our best energies to sustain them, cannot consider herself to be totally uninterested in their results. It is true that filibusterism now presents itself with armed hand only in order to snatch our prized Antille away from its obedience to the mother country. But if the right of Spain was mortally wounded, would that of other nations which have territories beyond the seas remain uninjured? Have the frightful colonial insurrections of past days been forgotten? It is true that only in Spain has fanaticism placed arms in the hands of ignorance, availing itself of circumstances favorable to its designs; but it is also true that if we lend an attentive ear we hear a distant but increasing noise, which gives evidence of deep religious agitations, in spite of the toleration on which the nineteenth century prides itself. Of propagandist demagogism which, under a variety of forms and titles, is undermining, sometimes in broad daylight, sometimes in secret conclave, the broad foundations on which society rests, and which, in order to form a new state of society—such as has existed in the imaginations of the apostles of every chimera—begins by attacking whatever is venerable and sacred in the human conscience, from the idea of a country to the constitution of the family; of that demagogism our country would not have been the only victim if, unfortunately for all, it had succeeded in planting its bloody flag upon the ruins of our cities.

This is the broad view taken by the present cabinet of the task which the public good and the present condition of the country have imposed upon it. If this on the one hand involves most grave responsibilities, it may offer on the other, if fortune is not adverse to it, immense and fruitful results.

It does not fear, therefore, that in so critical a situation, when it presents itself as a modest but decided champion of the cause of order, liberty, and progress—which is also the cause of the civilized world—the latter will withdraw, either wholly or in part, the efficient support of its sympathies, or that it will in any way curtail the integrity or the regular form of diplomatic relations. Public opinion, which directs the governing of states, no longer tolerates the narrowness of mind or the suspicions which guided foreign policy, when that policy was elaborated in the obscurity of cabinets, for the purpose of gratifying national rivalries and ambitions which were purely dynastic.

Public opinion, which is now based upon lofty sentiments of justice, and a high regard for the best interests of society, finds an echo in all languages, and is naturalized in all countries; and that public opinion which has marked out the path of our duty, in Spain, for us so imperiously and eloquently, is not destined to divorce us from the community of aspirations which is formed, be secondary misunderstandings what they may; by the intimate and sublime harmony of modern Europe.

Your excellency, adopting these sentiments for your guide, and amplifying the foregoing considerations in your intercourse with the statesmen with whom you may be brought into contact, will interpret, with scrupulous fidelity, the views of the government, whose honest purposes do not seek mystery for their realization, but must, on the other hand, find in the widest publicity the applause of all who become acquainted with them. To sum up: the government, whose chief task it is to restore internal order, and to put an end to the disturbances which still agitate the country, does not desire to appear with pretences of any kind before foreign powers; it thinks it evident, however, that the work best calculated to consolidate public peace in a nation so disturbed by powerful opposing elements, to elevate the principle of authority, lying prostrate through inconceivable weaknesses, and to repress, in like manner, the excesses of anarchy, and the blind zeal of absolutism, is a work of transcendent importance, which cannot be confined within our frontiers, and which must be appreciated beyond them at its full value and significance, as well by reason of the mutual affinity of interests and the noble sympathies which it must awaken, as by the indubitable influence of its consequences.

The ministry does not doubt that its patriotic desires will be realized, and that the high social and political interests intrusted to it will be duly protected; it does not doubt, moreover, that the Spanish nation, when the present exceptional situation, temporarily created by the gravity of the circumstances, shall have come to an end, will find most firm guarantees of moral and material order, which will permit it, in the regular enjoyment of representative institutions, to manifest, without foreign pressure and with all purity its true sentiments, and its sovereign will.

This letter, which I have the honor to address to your excellency by order of his excellency the President of the republic, and with the approval of the council of ministers, as also the manifest which accompanies it, you may read to the minister of foreign affairs of the government to which you are accredited, leaving a copy of both documents with him if he shall desire it.

AUGUSTO ULLOA.

MADRID, *May 22, 1874.*

A correct copy of the original:

JOSÉ POLO DE BERNABÉ.

[Inclosure.—Translation.]

EXECUTIVE POWER OF THE REPUBLIC.

TO THE NATION: Long and pompous programmes have been so much abused, that they are generally received with marked indifference. The grave and extraordinary circumstances through which we are now passing, however, render it absolutely incumbent upon the new government briefly to state its purposes in a public document, since it is unfortunately unable to do so before the representatives of the nation.

The persons who compose this cabinet are of one party only, but it is their firm intention to govern for the whole nation, without being influenced by any narrow party spirit. It therefore hopes for the support of liberal men of all shades, that it may be enabled properly to perform its arduous task, since the homogeneity of ideas and of actions in the high spheres of power is not opposed to the good understanding and harmony of all who are inspired by noble and lofty sentiments. Only in case this conciliatory attitude should be met by unjust aggressions, which might jeopardize the successful accomplishment of the task which the government is called to perform, would the government use all the means at its command in order to preserve public order and the high social interests of the nation intact, without regard to other considerations. The memorable 3d of January happily put an end to the demagogic excesses which neither the clamor of public opinion nor the energetic and honest efforts of the most illustrious men of a party which thus rent its flag had been able to suppress. Any one would doubtless be mistaken who should suppose that that necessary repression implies a condemnation of the revolutionary movement of 1868, subsequently so lamentably bastardized, whose generous spirit and whose regenerative aspirations are represented and maintained in all their purity by the members of this cabinet.

A sad legacy of those excesses was the civil war which now, for the third time in forty years, is desolating the richest Spanish provinces. Fortunately the recent victories of the national army have deprived of any dangerous character that senseless and preposterous attempt of the fanatical partisans of the old *régime*. To finish in the briefest space of time possible this cruel and devastating war, to prevent its resuscitation in future, to re-establish, in a solid manner, that peace which is so ardently longed for in the peninsula and in our provinces lying beyond the sea, and to exterminate every germ of future disturbances, is the task to which the government will assiduously devote its chief attention and its best efforts; for the cause of liberty against absolutism is not merely the aspiration of a party, it is the consecration of modern law and the defense of civilization and progress. In vain should we endeavor to conceal the lamentable condition of our exchequer, now burdened with the enormous expenses of the fratricidal struggle in which we are engaged.

In order to cure this evil the government does not offer empirical and fallacious remedies. What it does solemnly promise is to make known the true condition of the treasury, to manage the resources of the country with strict honesty, and to make no use of means which, while they may temporarily satisfy urgent necessities, subsequently produce discredit and ruin. The government is not unaware of the obstacles which it has to encounter in its march; it relies, however, in order to surmount them, upon the co-operation of the nation, which is now thirsting for repose. The ministers will consider their patriotic labors rewarded if they succeed in shortening an interim during which the working of liberal institutions is suspended, and they ardently long for the time when, moral and material order being secured, the country may be freely consulted with regard to its destinies.

Madrid, May 15.

JUAN ZAVALA,

President of the Council of Ministers and Minister of War.

AUGUSTO ULLOA,

Minister of State.

MANUEL ALONSO MARTINEZ,

Minister of Grace and Justice.

RAFAEL RODRIGUEZ,

DE ARIAS Y VILLAVICENCIO,

Minister of Marine.

JUAN FRANCISCO CAMACHO,

Minister of Finance.

PRAXEDES MATEO SAGASTA,

Minister of Gubernation.

EDUARDO ALFONSO COLMENARES,

Minister of Commerce and Industry.

ANTONIO ROMERO ORTIZ,

Minister of the Colonies.

A copy:

- JOSÉ POLO DE BERNABÉ.

CASE OF THE STEAMER VIRGINIUS AND EXECUTION OF
CITIZENS OF THE UNITED STATES CAPTURED ON HER.

I. CORRESPONDENCE WITH THE LEGATION OF THE UNITED STATES AT
MADRID.

No. 584.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 6, 1873.*

Official Gazette publishes telegram from captain-general of Cuba, reporting capture of *Virginus* six miles from Jamaica, after a chase, by Spanish steamer *Tornado*. In compliance with my suggestion, instructions sent to captain-general to await orders from this government before inflicting penalties on passengers or crew.

SICKLES.

No. 585.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *November 7, 1873.*

The capture on the high seas of a vessel bearing the American flag presents a very grave question, which will need investigation, and the summary proceedings resulting in the punishment of death, with such rapid haste, will attract attention as inhuman and in violation of the civilization of the age. And if it prove that an American citizen has been wrongfully executed, this Government will require most ample reparation.

FISH.

No. 586.

General Sickles to Mr Fish.

No. 804.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 7, 1873. (Received December 8.)

SIR: Yesterday the official gazette published a telegram, of which the following is a translation:

ISLAND OF CUBA —The captain-general, in a telegram of yesterday, the 5th, reports that the steamer *Tornado* captured the pirate *Virginus* six miles from the coast of Jamaica, having made *Bembeta*, *Hernando Céspedes* (son) *Quesada*, *Jesus del Sol*, and others to the number of 165, prisoners, some of them being of importance. The horses, arms, and provisions of the *Virginus* were thrown overboard during the chase. The captain-general attaches importance to the occurrence.

In the afternoon I called at the ministry of state for the purpose of suggesting to Mr. Carvajal that this capture afforded an opportunity to inaugurate a more generous and humane policy in the conduct of the war in Cuba; that if it should turn out that the vessel was taken on the

high seas it might be the subject of a reclamation, and that in any event it would be well to direct the captain-general of Cuba to await orders from this government before taking any further steps in the case. Learning that his excellency was indisposed, I communicated my views to his deputy and wrote a private note to the minister, inviting his attention to the subject.

In the evening I mentioned the matter to President Castelar, remarking that I had received no information or instructions from my Government touching the incident, and that while we had no desire to extend our protection to the enemies of Spain, yet if it should transpire that the *Virginus* was an American ship, captured on the high seas by a Spanish cruiser, in time of peace, a demand would doubtless be made for the release of the vessel and all on board. I had, therefore, deemed it proper to remind his excellency of the precipitation which often marked the proceedings of the Cuban authorities in the summary execution of prisoners, and to recommend the dispatch of immediate and explicit orders forbidding any such proceedings without the previous sanction of this government.

President Castelar received these observations with his usual kindness, and told me, confidentially, that at seven o'clock in the morning, as soon as he read the telegram from Cuba, and without reference to any international question, for that, indeed, had not occurred to him, he at once sent a message to the captain-general, admonishing him that the death-penalty must not be imposed on any non-combatant without the previous approval of the Cortes, nor upon any person taken in arms against the government without the sanction of the executive. Now that it seemed possible other questions might arise, further instructions would be sent to General Jovellar in the sense I had indicated.

I expressed my satisfaction in learning that the President had determined to stop the cruel treatment of prisoners of war in Cuba, which had so embittered the unhappy contest in that island and so increased the difficulties in the way of any scheme of pacification.

Mr. Castelar remarked that it would be well for me to have a conversation with Mr. Carvajal on the subject, in order that the question might be brought through the regular channel before the council of ministers. I answered, that having already in an unofficial way thrown out a sufficient intimation to the minister of state, I preferred to wait instructions before taking any further step in so delicate a question.

I learn to-day that many deputies have united in an address to President Castelar, praying him to interpose his authority to prohibit the infliction of the death-penalty on any of the persons captured in the *Virginus*. A similar petition has been laid before the parliamentary committee sitting during the recess, and which is invested with certain extraordinary powers. This proceeding is passionately assailed by the reactionary press, which loudly demands the blood of the prisoners.

I am, &c.,

D. E. SICKLES.

No. 587.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 8, 1873. (Received November 8, 6.45 p. m.)

Communicated to minister of state substance of your cable about *Virginus*. He said no information had been received of punishments

inflicted. He has cabled captain-general for full report of facts. In reply to my observations on the law of the case, he said this government, without waiting for reclamations on our part, would spontaneously take such action as, in view of the circumstances, public law and treaty obligations required; and that on or before Thursday next he would acquaint me of the decision of this cabinet in the premises.

SICKLES.

No. 588.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 8, 1873.* (Received November 8.)

After my interview at the department, minister called to state that his colleague of colonial office had received information of the shooting of four of the passengers of the *Virginus*—Céspedes, Bembeta, Jesus del Sol, and another. Mr. Carvajal expressed the extreme regret of this government in receiving this report. He is confident the act took place before the receipt of the orders sent by President Castelar on the sixth. Further orders to stay proceedings have been cabled, and the minister of state said he hoped to acquaint me on Monday with the action of the council of ministers.

SICKLES.

No. 589.

General Sickles to Mr. Fish.

No. 811.]

LEGATION OF THE UNITED STATES IN SPAIN,
Madrid, November 8, 1873. (Received November 28.)

SIR: This morning, on receipt of your telegram, dated yesterday, in relation to the capture of the *Virginus*, I had a conversation with the minister of state, of which I sent you a brief report by cable.

Referring to my visit to the department day before yesterday, and to the suggestion then made in a private note, I said I regretted to have occasion to inform his excellency that the conduct of the authorities in Cuba had shown the expediency of the steps I had recommended to be taken to prevent any acts of violence toward the passengers in the *Virginus*. Mr. Carvajal said that he had not heard that any of the prisoners had been executed.

Informing the minister of the purport of your instruction, I said the case presented, at the outset, a grave assumption of jurisdiction on the high seas to which the United States could not assent if it should appear that the *Virginus* was a regularly-documented American ship. In that event, and assuming that the vessel was seized outside of Spanish waters, this government would be expected to release the ship, passengers, crew, and cargo, and to signify its disapprobation of the trespass. In the present aspect of the question, I was not about to make such a demand; I should now only invite the serious attention of his excellency to the transaction, communicating the information and the views you had given me for my guidance, and I hoped that this government,

without waiting for a formal reclamation, would take immediate steps to make the reparation which public law and the recognized usage of nations might require. At the same time I intimated the importance of allowing no act to be done meanwhile in Cuba which could embarrass or prevent such a disposition of the case as the circumstances might show to be proper and just.

I then stated concisely the general principles of public law which I regarded as applicable to the facts, so far as they had transpired, in the preliminary reports received, Spain not having declared that war exists in Cuba, and the United States not having recognized the parties to the contest as belligerents. The Tornado had exceeded her jurisdiction in undertaking to capture a ship under a foreign flag in the open sea. No question would have arisen if the vessel had been found in Spanish waters, and a fair trial accorded to any American citizens on board, in conformity with the provisions of the seventh article of the treaty of 1795. On the case as it now appeared, the proceeding of the Tornado was as indefensible as if a Spanish commander in the north pursued Don Carlos to Bayonne, seizing him and taking him to Pamplona to be shot. Spanish ships of war had no more right to lay hands on an American vessel at sea than we would have to enter the port of Cadiz and arrest an offender against our laws. This immunity of every known flag on the ocean was a principle that Spain, in common with all maritime nations, had an equal interest in maintaining inviolate,

The minister said that he had cabled an order to the captain-general of Cuba for a detailed report of all the facts. He had put a series of questions to that officer, numbering them for greater precision, so that the council of ministers might be in possession of all the information necessary to a just appreciation of the occurrences. He hoped to be able to communicate to me the action taken on or before Thursday next. He was very glad I had not made a formal demand. It was unnecessary. This government would take up the question at once and decide it on principles of public law, and according to its international obligations, uninfluenced by political opinions or passions in any quarter.

I stated that the attention of this government had been repeatedly called to the rules of international law applicable in such cases. In 1869 you had addressed a note to the Spanish minister in Washington, pointing out certain clauses in a decree issued by General de Rodas, then commanding in Cuba, which erroneously asserted the right of Spain to take and detain suspected vessels on the high seas, and treat them as pirates. Pursuant to your instructions I had pointed out to Mr. Silvea, then minister of state, the grave consequences of such orders given to the Spanish fleet in the Gulf of Mexico, treating those waters as if they were a Spanish lake. Mr. Silvea assured me that he had already twice endeavored to acquaint General de Rodas with the true boundaries of his authority, which he had obviously exceeded in his decrees, and it would not be left doubtful that in his third performance the error of the captain-general should stand corrected. I had also had occasion to discuss and settle with General Prim's government, in the affair of the Lloyd Aspinwall, a clear precedent in this class of cases. Very recently Mr. Carvajal himself had considered the same general question in the matter of the Deerhound, an English vessel captured some miles off the Spanish coast in the Bay of Biscay, with arms and ammunition for the Carlists.

The minister said this government had released the Deerhound and her passengers and crew, moved by the same respect for public law that

would be now invoked in the investigation and consideration of the questions raised by the capture of the *Virginius*. I might assure you of the earnest desire of the government of the republic to treat the matter dispassionately and with a firm purpose to fulfill all its duties toward other powers, while maintaining a becoming regard for its own independence and honor.

I had returned to the legation and written my telegraphic report of this interview when Mr. Carvajal was announced. He came in saying, "I have bad news—four of the party on board the *Virginius* have been shot." His excellency proceeded to state that soon after I had taken leave of him, and while President Castelar was in the ministry, his colleague of the colonial office handed him a telegram containing a report received indirectly from an officer holding a subordinate command in Cuba, and stating that young Cespedes, Bembeta, Jesus del Sol, and another of the prominent persons captured, had been shot in the execution of a former sentence. Although the information was not so authentic and definite as to merit full credence, yet it had been received by this government with the utmost concern and regret, and he had hastened to impart it to me, although it was desired that, for the present at least, nothing should transpire on the subject in Madrid. He added that further orders had been cabled to the captain-general of Cuba, enjoining most imperatively that all proceedings against the persons in custody cease. The minister likewise remarked that up to this hour no report had been received at the colonial department from the captain-general of Cuba, and the government was confident that the deplorable act of the local authorities of the port to which the vessel had been taken must have happened before the receipt of the orders sent to the captain-general on the morning of the 6th instant by President Castelar. The whole matter would at once engage the careful attention of the council of ministers, and I might expect to receive a communication from him on Monday, day after to-morrow.

I called at half past ten to-night at the executive mansion, hoping to have a conversation on the subject with President Castelar, and found him engaged in a cabinet council, called, perhaps, especially for the consideration of this question.

I am, &c.,

D. E. SICKLES.

No. 590.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 10, 1873.

Minister says he has not yet received detailed report asked for from captain-general. It appears *Virginius* was taken to Santiago de Cuba, where she arrived at six in the morning of the 4th. A few hours afterward four of the passengers, who had been tried and sentenced to death some two years ago, were identified and shot. This was reported to General Jovellar on the 5th—the same day he was informed of the capture, and the day before President Castelar's order was sent from Madrid in reply to the captain-general's first telegram on the subject. I have received only one instruction from you in this case. If you have sent more please repeat.

SICKLES.

No. 591.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 11, 1873.*

Have requested that orders be sent permitting our consul to see and freely confer with American citizens in custody of authorities at Santiago de Cuba.

SICKLES.

No. 592.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *November 12, 1873.*

An official bulletin published in Havana on 5th announced capture of Virginius on 31st October, and that prisoners were being tried by a competent court. Hall reports telegraphic communication with Santiago interrupted, and no further details received. If captured on 31st, her not being brought in until 4th November needs inquiry, and the announcement of trial by competent court seems not to have been true, and needs explanation. It is presumed that Spain will voluntarily restore the ship and tender full reparation; but until accurate report of all particulars is received, no positive demand will be made.

FISH.

No. 593.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *November 12, 1873.*

Hall telegraphs that Havana papers of this morning published statement, apparently from official source, that the captain and thirty-six of the crew of Virginius, and sixteen others, were shot on 7th and 8th instant.

It is hoped the report of such butchery and murder may prove inaccurate. You will ask of minister confirmation or denial of the report. The alleged date is subsequent to the orders said to have been sent from Madrid forbidding any punishments.

I have telegraphed for further intelligence. If the report be confirmed, you will protest, in the name of this Government, and of civilization and humanity, against the act as brutal, barbarous, and an outrage upon the age, and will declare that this Government will demand the most ample reparation of any wrong which may have been committed upon any of its citizens or upon its flag. You are confidentially informed that grave suspicions exist as to the right of the Virginius to carry the American flag, as also with regard to her right to the American papers which she is said to have carried. Investigation is being made. You will bear this in mind in what you may say to the ministry.

FISH.

No. 504.

Mr. Fish to General Sickles.

No. 404.]

DEPARTMENT OF STATE,
Washington, November 12, 1873.

SIR: You will receive by the mail of this date a copy of the telegrams which have been sent to you with reference to the capture of the "Virginians," and also of those from you relating to the same subject, as they have been received and deciphered here.

The first intelligence was received here late in the evening of the 5th instant, from Mr. Hall, acting consul-general in Havana. I was absent from Washington the 6th, returning on the evening of the 6th. Your telegram was received announcing the instructions of the Madrid government not to inflict any penalties until the matter should have been reported there.

On the 7th the public journals announced the execution on the 4th of four persons who had been captured on the vessel, one of whom was represented to be an American, who is said to have entered the military service of the insurrectionists in Cuba, and who claimed to hold a military commission from the insurrectionary authorities, and to have been in actual military service on the island.

The execution, as it is called, of those persons was forced on with indecent and barbarous haste, and in defiance of all humanity and regard to the usages of the civilized world.

It was perpetrated in advance of the knowledge of the capture reaching Havana or Madrid, and it would seem to have been thus precipitated in cold blood and vindictiveness, to anticipate and prevent the interposition of any humane restraints upon the ferocity of the local authorities from the government at Madrid or its representative in Havana.

This is but another instance in the long catalogue of the defiance of the home government by those intrusted with authority in Cuba, and adds another page to the dark history of bloody vengeance and cruel disregard of the rules of civilized war, and of common humanity, which the military and other officials in Cuba have but too frequently made part of the history of Spain's government and of its colony.

The promptness with which the Madrid government responded to your suggestion, and forwarded instructions to the captain-general to await orders before inflicting any penalties on the passengers or crew of the Virginians, is accepted as evidence of their readiness to administer justice, and gives promise of the promptness with which they will condemn, and punish the hot thirst for blood and vengeance which was exhibited at Santiago de Cuba.

Condemnation, disavowal, and deprecation of the act will not be accepted by the world as sufficient to relieve the government of Spain from participation in the just responsibility for the outrage. There must be a signal mark of displeasure and a punishment to which the civilized world can point, and which other subordinate or local officials will have cause to look to as a beacon on a dangerous rock, to be forever after avoided.

You will represent this to the government at Madrid, and you will further very earnestly, but avoiding any just cause of offended sensibility, represent that the failure of some speedy and signal visitation of punishment on those engaged in this dark deed cannot fail to be regarded as approval of the act, and in view of the orders given to abstain from any punishment which the home government had passed upon them, will be regarded as admission of the inability of the government of the

peninsula to control the affairs of the island of Cuba. The omission to punish the acts of the 4th of November, in Santiago de Cuba, will be a virtual abandonment of the control of the island, and cannot be regarded otherwise than a recognition that some power more potent than that of Spain exists within that colony.

You may read what precedes to the minister, and you may say that this Government has confidence in the sincerity and good faith of the present government at Madrid, and of its desire to have executed in Cuba the promises made in Madrid.

We fear, however, that unaided, Spain has not the power to control the resistance to its authority under the attitude and profession of loyalty and support which is more formidable than the insurrection of Yara to her continued ascendancy. The rebellion and insurrection of the Casino Espagnol and its pretorian volunteers present the most formidable opposition to the authority of the peninsula.

With regard to the "Virginus," we are still without information as to the particulars of her capture. There are conflicting representations as to the precise place of capture, whether within British waters or on the high seas, and we have no information as to whether she was first sighted within Spanish waters and the chase commenced there, or whether it was altogether in neutral waters.

Mr. Hall has been requested to furnish full particulars, and a vessel of the Navy has been dispatched thither. Mr. Hall informs me that telegraphic communication between Havana and Santiago de Cuba has been interrupted.

There is also some doubt as to the right of the Virginus to carry the American flag, or of her right to the papers which she unquestionably carried. This is being investigated, and, of course, no admission of doubt as to the character of the vessel can be allowed until it become apparent that the Government cannot sustain the nationality of the vessel, while the doubt imposes on the Government the necessity of caution in ascertaining the facts before making a positive demand.

While writing this instruction, a telegram from Mr. Hall mentions that Havana papers of this morning published a statement, apparently from official sources, that the captain and thirty-six of the crew of the Virginus and sixteen others were shot on the 7th and 8th instant.

Such wholesale butchery and murder are almost incredible; it would be wholly incredible but for the bloody and vengeful deeds of which Cuba has been the theater. No government deserves to exist which can tolerate such crimes. Nature cries aloud against them. Spain will be loud and earnest in punishing them, or she will forfeit her past good name.

Your request to the government that our consul be permitted to see and to confer with American citizens who may be prisoners at Santiago de Cuba was considerate, and is approved; but it had been anticipated through the Havana consulate.

I am, &c.,

HAMILTON FISH.

No. 595.

General Sickles to Mr. Fish.

No. 815.]

UNITED STATES LEGATION IN SPAIN,
 Madrid, November 12, 1873. (Received December 8.)

SER: I have the honor to forward a copy of a note passed to the min-

ister of state yesterday, requesting that any American citizens in custody of the authorities at Santiago de Cuba be allowed all the privileges guaranteed to them by the seventh article of the treaty of 1795, and that the consul of the United States at that place be permitted to have free communication with the accused. This suggestion seemed to me proper, in view of what happened in March last in the case of the sailors of the bark Union, and your instructions in that case.

I am, &c.,

D. E. SICKLES.

[Inclosure.]

General Sickles to Mr. José de Carrajal.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, November 11, 1873.

The undersigned presents his compliments to his excellency the minister of state, and has the honor to request that orders be sent to the authorities at Santiago de Cuba to allow the consul of the United States at that place to see and freely confer with any American citizens among the officers, passengers, and crew of the *Virginus* who may be now in custody, and that they may have accorded to them the rights and privileges stipulated and guaranteed by the seventh article of the treaty of 1795.

The undersigned finds an additional motive for this suggestion in the fact that in March last, in the case of three American sailors of the bark Union, the governor of Santiago de Cuba refused the same reasonable request when made by the United States consul, and alleged, as the ground of such refusal, that war existed in the island, and no rules could be recognized except such as prevailed in an ordinary Spanish court-martial. The undersigned, in obedience to the instructions of his Government, remonstrated against such action, and was assured by Mr. Castelar, then minister of state, that the conduct of the governor was disapproved; that, moreover, Spain did not regard the insurrection in Cuba as a war, and would not claim for herself, or desire to see accorded to either party in the contest, the rights of belligerents; and that, in conformity with these views, the government of the republic would send instructions to the captain-general of Cuba for the guidance of himself and the subordinate authorities of the island.

The undersigned avails himself, &c.,

D. E. SICKLES.

No. 596.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 12, 1873.*

The *Deerhound*, an English vessel, with arms and munitions of war for Don Carlos, captured in July last off this coast, on the high seas, by a Spanish gunboat, was released, with her crew and passengers, including one or more prominent Carlists, on the demand of Great Britain.

SICKLES.

No. 597.

General Sickles to Mr. Fish.

No. 820.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 12, 1873. (Received December 8.)

SIR: The case of the *Deerhound*, of which I cabled a brief statement this morning, was not settled without considerable hesitation and delay

on the part of this government. Mr. Carvajal insisted for some time that it was a proper subject for the decision of a prize-court, and that until the judgment of that tribunal should be given no diplomatic reclamation could be entertained. This ground was not satisfactory to Great Britain. It was replied that no declaration of war had been made by Spain; that the parties to the contest had not been recognized as belligerents; that no jurisdiction over such a capture could be acquired by a prize-court in time of peace; that the act of the Spanish cruiser was a mere trespass on the high seas, from which no right of condemnation could possibly follow. Great Britain therefore urged that the matter was in the exclusive and sole cognizance of the executive authorities; and, considering that the facts of the case and the principles of public law applicable to them were indisputable and clear, the immediate release of the vessel, passengers, and crew was demanded. The Spanish government at length yielded to the arguments ably presented by Mr. MacDonell, the British chargé d' affaires, and made ample reparation.

I am, &c.,

D. E. SICKLES.

No. 598.

General Sickles to Mr. Fish.

No. 821.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 12, 1873. (Received December 8.)

SIR: Night before last I called at the executive mansion, and was received by President Castelar with his usual amiability. His excellency had scarcely welcomed me when he exclaimed "How deeply I deplore the execution of the four prisoners at Santiago de Cuba! What a misfortune that my order was not received in time to prevent such an act! It was against the law, and the only excuse offered is that a sentence of death had already been pronounced against these men."

Interrupted for a moment, the President continued: "Such scandals must cease. A conservative deputation was here this morning, and I told them frankly that we must put an end to slavery in Cuba; it brutalizes all it touches!"

I replied that so grave an offense against civilization should indeed have a great atonement, and in the abolition of slavery the cause of these barbarities would disappear.

His excellency proceeded to state, in reply to a reference to my interview with Mr. Carvajal, that, in conformity with our understanding, a series of interrogatories had been put by cable to the captain-general, the replies to which would afford the information necessary to a just appreciation of the case in any international aspect it might have. The government of the republic had every disposition to treat the matter dispassionately, and to come to a resolution in harmony with the of the nations and the friendly relations it desired to preserve with the United States.

In reply to my request for early intelligence of the action proposed to be taken, Mr. Castelar assured me that I would receive a communication from himself, or Mr. Carvajal, as soon as the answer of the captain-general could be considered by the council of ministers.

I am, &c.,

D. E. SICKLES.

No. 599.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 12, 1873.

Minister of state informed me this evening at the legation that a preliminary report had been received from Cuba, from which it appeared that the *Virginus* was seen making a landing on that coast. Pursuit began in Spanish waters, and about twenty-three miles from Jamaica the vessel was captured. It is also alleged that her papers had no consular certificate, and are otherwise irregular. Mr. Carvajal said he expected further particulars to-night, and appointed to-morrow, at four in the afternoon, for a conference with me at the state department. He also remarked that Admiral Polo's report of his interview with yourself had been read with much satisfaction. Your cable of this date received.

SICKLES.

No. 600.

General Sickles to Mr. Fish.

No. 823.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 13, 1873. (Received December 8.)

SIR: Mr. Carvajal, accompanied by the under-secretary of state, called at the legation last evening. The minister stated that a partial report had been received of the incidents attending the capture of the *Virginus*. It appeared that the vessel was seen on the coast of Cuba attempting to land her passengers and cargo; that the pursuit began in Spanish waters, and somewhere about twenty-three miles from Jamaica she was overtaken and captured. It was also alleged that the *Virginus* exhibited no papers; but this was subsequently qualified by the statement that her documents were not authenticated by the *risa* or certificate of any consul, and were, besides, irregular in other particulars; and although the report was incomplete, yet enough was known to indicate that the case would be less difficult of adjustment than was apprehended at the outset, and this was a matter for sincere congratulation. Mr. Carvajal proceeded to observe that Admiral Polo's dispatches alluded to the excitement and irritation manifested in the United States when the news of the capture was first received, which had now, however, perceptibly diminished in view of more accurate information since published. His excellency said it was gratifying to learn, through the same channel, that my reports of the friendly disposition of this government had impressed you favorably, and he had read with much satisfaction the Spanish minister's *résumé* of his conversation with yourself. Mr. Carvajal, in conclusion, invited me to a conference on this subject this afternoon at four o'clock, at the palace, when he would be prepared to make a further communication to me.

I remarked that whatever popular agitation might have been provoked in the United States by the news of the capture of the *Virginus*, it

would not influence the action of the President in a matter affecting our relations with a friendly power. In this respect the conduct of my Government might perhaps be observed with advantage by several European states I might mention. When, for example, the rebel agents Mason and Slidell were taken from the Trent, the uproar in England was reflected in the impatient action of the British cabinet, while the decision of Mr. Lincoln to reprove the act and return the men was adopted and executed in the face of a public opinion which desired a different course to be followed. Unfortunately the Spanish authorities in Cuba had hitherto failed in restraining the passions of a turbulent element in the population of the large towns, so that whenever our citizens were known to have fallen into the power of the mob at Havana or Santiago de Cuba, public opinion was justly apprehensive of their fate. I had received a further communication from you, containing additional particulars of the capture and its consequences, of which we would speak this afternoon when I should have the honor to meet his excellency at the ministry. It was, however, quite certain that no demand would be made by the President until trustworthy information was received of the whole case. Meanwhile, it would be satisfactory to know that this government had spontaneously taken such action in the matter as would facilitate a prompt solution of any question that might arise.

I am, &c.,

D. E. SICKLES.

No. 601.

General Sickles to Mr. Fish.

No. 824.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 13, 1873. (Received December 15.)

SIR: At four o'clock this afternoon, the hour appointed yesterday, I had an interview with the minister of state at his office. His excellency received me with the remark that late news from Cuba had deprived our conference of the results he had anticipated from it. Last night a report had been received from the captain-general, stating that forty-nine of the prisoners taken in the *Virginius* had been shot on the 7th and 8th instant, at Santiago de Cuba. The order of President Castelar, dispatched on the 6th, had reached Havana on the following day, too late to prevent these executions. He made this communication to me with profound regret. President Castelar had received the intelligence with deep concern. The laws passed by the Cortes not being applicable to Cuba without a special declaration therein to that effect, the authorities had followed the prescriptions of the old colonial code, and thus the humane legislation of September last, which forbid death-penalties without the approval of the Cortes in the cases of civilians, and of the executive in military sentences, had failed to become operative in Cuba. General Jovellar now held himself responsible for the due observance of this law, which had been extended to Cuba by an executive order, and it was at least certain that the slaughter had ceased.

I inquired whether his excellency could inform me how many of the victims were American citizens, to which he replied that no particulars had been received, and it was precisely that question he had put to the captain-general in a cable-message sent at two o'clock this morning.

With reference to the suggestion that a Spanish law had no force in Cuba without an express provision in the statute declaring it so applicable, I asked Mr. Carvajal whether the executive authority of Spain exercised any jurisdiction over the island, and, if so, what powers belonged to it. His excellency answered that he had merely expressed an opinion in saying the ordinary laws of the republic were inapplicable. There could be no doubt, however, that the executive jurisdiction was ample; and now that the revocation of the royal order of 1825 had deprived the captain-general of the faculty of suspending the dispositions of the supreme government, there was no reason to apprehend a repetition of the irregularities that had hitherto occurred in the administration of Cuban affairs.

I observed that in June last I had invited the attention of Mr. Castelar, then minister of state, to the ground taken by the authorities in Cuba in asserting that war existed in the island, and that no other than martial law was recognized. His excellency having replied that this government rejected any such assertion, authorizing me to convey to you the declaration that Spain did not so regard the conflict in Cuba, I begged that instructions be sent to the captain-general not to withhold from any citizen of the United States, within his jurisdiction, the protection and securities of the ordinary tribunals of justice in due course of law, as provided by the seventh article of the treaty of 1795. I was assured that such orders would be given; and so that nothing should be wanting to impress on the government of the republic the justice and the urgency of the appeal I made; I referred Mr. Castelar to a series of instances in which the authorities in Cuba had assumed to exercise powers in derogation of the rights of the United States and of their citizens. If, therefore, it should now appear that American citizens had been put to death by the Spanish authorities in Santiago, without properly acquiring jurisdiction of their persons, or without respecting the rights guaranteed to the accused in all trials for offenses charged against them, the responsibility would rest on the executive department of this government, which had been again and again admonished that the United States insisted on the fulfillment of these solemn obligations.

Mr. Carvajal said that in the present state of the question he could not proceed with the discussion. He had hoped that to-day we could at least have settled the preliminaries of an adjustment, but the intelligence now received had so modified the case as it had been considered in the council of ministers, that he must adjourn our conference until another day, of which he would notify me. Further information was needed, which he looked for hourly from Cuba.

I stated that the publication of the events of the 7th and 8th instant would produce a profound impression in the United States, and, indeed, all over the civilized world. The President could not be unmoved by incidents of such gravity occurring on our borders, and perhaps affecting our own citizens and the inviolability of our flag. He had, so far, withheld any demand, believing and expecting that Spain would spontaneously hasten to offer complete reparation for what had occurred respecting the *Virginius* and her passengers. I need scarcely intimate to his excellency that this question was acquiring from day to day more serious proportions. And in behalf of interests which I was sure he cherished no less sincerely than myself, I trusted not a moment would be lost in arriving at a resolution which I might convey to you with satisfaction.

Mr. Carvajal remarked that orders had been sent to the captain-gen-

eral in conformity with the request made in my note of the 11th instant, to which he would reply to-morrow. President Castelar was now awaiting him to resume the consideration of this subject. I should hear from him without delay, as soon as he was prepared to speak more definitely.

Before taking my leave of his excellency I pointed out that an official bulletin, published in Havana on the 5th instant, announced that the *Virginus* was captured on the 31st of October, and that the prisoners were being tried by a competent court. An interval of four days between the capture and the arrival of the ship at Santiago de Cuba was inconsistent with the statement of the captain-general that she was taken a few miles from Jamaica. It also appeared that the shooting began only a few hours after the prisoners had been delivered over to the authorities, which indicated that no trial was allowed them, and this would require explanation if the proceeding affected any citizen of the United States. If the seizure of the vessel proved unlawful it would be necessary to show how the tribunals in Cuba could acquire jurisdiction to try or punish anybody found on board an American ship on the high seas.

The minister rejoined that in cases where parties had been already tried and sentenced in their absence, it was only necessary, when subsequently in custody, that they should be identified, and this was a summary proceeding.

Upon this I stated that I had been informed by his predecessor, Mr. Martos, that according to the law of Spain such sentences were not executory when the parties demanded a hearing on the merits of the charge against them. And I had more than once, in obedience to my instructions, declared to this government that the United States would not recognize the trial and sentence of an American citizen in Cuba without the presence of the accused, as a compliance with the requirements of the seventh article of the treaty of 1795.

I am, &c.,

D. E. SICKLES.

No. 602.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 13, 1873.*

Conference appointed for this afternoon adjourned by minister, because he had received at a late hour last night information from the captain-general that forty-nine of the persons on board the *Virginus* had been shot on the 7th and 8th instant. Mr. Carvajal said he communicated this report to me with profound regret. President Castelar had shown the deepest feeling in view of this intelligence. It appears the order of this government, sent on the 6th, did not reach Havana until the 7th, and could not be transmitted to Santiago in time to prevent what was done. General Jovellar says he will stop any more slaughter. Further reports called for at two this morning, and I am promised explanations as soon as they can be given. The Madrid papers of last evening and this morning announce that fifty executions had taken place.

SICKLES.

No. 603.

Mr. Fish to General Sickles.

No. 406.]

DEPARTMENT OF STATE,
Washington, November 14, 1873.

SIR: I inclose herewith a copy of a telegram sent to you this day, relating to the capture of the *Virginus*, and also of the correspondence upon the same subject which has taken place between the consul-general of the United States at Havana and the captain-general of Cuba.

I am, &c.,

HAMILTON FISH.

No. 604.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 14, 1873.

The authorities at Santiago refused to allow our vice-consul to telegraph consul at Kingston for information respecting the sailing of the *Virginus*, and which might tend to relieve the persons on board, and captain-general returned a curt refusal to consul-general at Havana, who, under instructions from this Department, interposed, in behalf of any American citizens who might have been captured, a claim to the protection guaranteed by the treaty of 1795.

I sent you two telegrams on the 12th. Did you receive both?

FISH.

No. 605.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 14, 1873.

Your telegram announcing adjournment of conference received.

Unless abundant reparation shall have been voluntarily tendered, you will demand the restoration of the *Virginus*, and the release and delivery to the United States of the persons captured on her who have not already been massacred, and that the flag of the United States be saluted in the port of Santiago, and the signal punishment of the officials who were concerned in the capture of the vessel and the execution of the passengers and crew.

In case of refusal of satisfactory reparation within twelve days from this date, you will, at the expiration of that time, close your legation, and will, together with your secretary, leave Madrid, bringing with you the archives of the legation. You may leave the printed documents, constituting the library, in charge of the legation of some friendly power, which you may select, who will consent to take charge of them.

FISH.

No. 606.

General Sickles to Mr. Fish.

No. 827.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 14, 1873. (Received December 11.)

SIR: I have the honor to forward herewith a copy of a note this day passed to the minister of state, in which, in obedience to your instruction of the twelfth instant by cable, I have protested against the summary execution of the captain and thirty-six of the crew of the *Virginus* and sixteen others by the order of the Spanish authorities at Santiago de Cuba. You were advised in my telegram of last evening that Mr. Carvajal, in our interview of yesterday, confirmed the report published in the Havana papers.

I am, &c.,

SICKLES.

[Inclosure.]

*General Sickles to Mr. José de Carvajal.*LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, November 14, 1873.

The undersigned, in obedience to the orders of his Government, has the honor to invite the attention of his excellency the minister of state to the fact that the Havana papers published on the morning of the 12th instant a statement, apparently derived from official sources, that the captain and thirty-six of the crew of the *Virginus*, and sixteen other persons taken on board that vessel, were shot on the 7th and 8th of the present month, by the order and sanction of the Spanish authorities at Santiago de Cuba. The verbal communication made to the undersigned last evening by Mr. Carvajal, at the ministry of state, coinciding in substance with the information received at Washington, must be regarded as a confirmation of the report published in Havana and in Madrid on the day before yesterday. The undersigned is, therefore, directed to protest, and, in the name of his Government and of humanity, he does hereby protest against the said act of the authorities in Cuba as barbarous and brutal, and an outrage upon this epoch of civilization; and the undersigned is likewise ordered to declare to his excellency the minister of state that the Government of the United States will demand the most ample reparation of any wrong which may have been thereby committed upon any of its citizens or upon its flag.

The undersigned avails himself, &c.

D. E. SICKLES.

No. 607.

General Sickles to Mr. Fish.

[Telegtam.]

MADRID, *November 14, 1873.*

Your instruction of 12th by cable received this morning. Report of shooting confirmed by minister yesterday. Protest made.

SICKLES.

No. 608.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 14, 1873.*

Your cable of 12th, beginning "An official bulletin," received early same day. The other was delivered this morning. Yours of this date received at 10.30 to-night.

SICKLES.

No. 609.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 15, 1873.

Made demand by note to-day at 3 in the afternoon.

SICKLES.

No. 610.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 15, 1873.

Received an ill-tempered note to-day from minister of state, rejecting protest, and saying Spain would, nevertheless, consider and decide question according to law and her dignity.

SICKLES.

No. 611.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 15, 1873.

Hall telegraphs this date the confirmation of report of further execution on 12th instant, and that Havana papers of yesterday published account of execution of fifty-seven other prisoners, and that only some eighteen will escape death, but that nothing official was received. You will represent this report to minister. These repeated violations of assurances of good-will and of the prohibition of murder by the authorities in Santiago increase the necessity of full and speedy reparation. There is but one alternative if denied or long deferred. If Spain cannot redress the outrages perpetrated in her name in Cuba the United States will. If Spain should regard this act of self-defense and justification, and of the vindication of long-continued wrongs, as necessitating her interference, the United States, while regretting it, cannot avoid the result. You will use this instruction cautiously and discreetly, avoiding unnecessarily exciting any proper sensibilities, and avoiding all appearance of menace; but the gravity of the case admits no doubt, and must be fairly and frankly met.

FISH.

No. 612.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 15, 1873.

Duplicate of protest cable of 12th received at 6 to-night.

SICKLES.

No. 613.

General Sickles to Mr. Fish.

No. 832.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 16, 1873. (Received December 9.)

SIR: I have the honor to forward herewith a copy of a note demanding reparation in the matter of the *Virginius*, addressed, pursuant to your instructions, to the minister of state, under date of yesterday, and placed in the hands of the sub-secretary, at the ministry, by Mr. Adee, at half-past three o'clock in the afternoon of the same day.

I am, &c.,

D. E. SICKLES.

[Inclosure.]

*General Sickles to Mr. José de Carrajal.*LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, November 15, 1873.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, on the 6th of this month, in a private communication, and afterward on the 8th instant, in an official conference with Mr. Carvajal, had the honor to invite the attention of the government of Spain to the capture of the American ship *Virginius* by the Spanish armed cruiser *Tornado*, on the 31st of October last, on the high seas, and the subsequent taking of the said vessel, with her officers, crew, and passengers, to the port of Santiago de Cuba, a place within Spanish jurisdiction. The undersigned then intimated to his excellency the minister of state that the Government of the Union withheld any formal request for reparation in the case, trusting that it would seem to the government of this country becoming and proper to offer to the United States at once the most complete satisfaction in its power for this offense to their dignity and the inviolability of their flag.

More than fifteen days have passed since the *Virginius* was captured. The undersigned has waited more than eight days for a communication from his excellency the minister of state, signifying that this government was prepared to make due atonement for the wrong and injury done, and of which complaint was made as aforesaid.

Meanwhile the officials, purporting and claiming to exercise authority in Cuba, not restrained by the supreme government, have inflicted summary, cruel, and bloody punishments on the captain, officers, and crew of the *Virginius*, and on a number of her passengers, and this pending the amicable representations of the undersigned to his excellency the minister of state, having for their object the considerate and honorable adjustment of any questions involved in the capture.

The undersigned has now, in the name of the President, to demand the restoration of the *Virginius*, and the release and delivery to the United States of the persons captured in her who may yet survive; and that the flag of the United States be at the same time saluted in the port of Santiago de Cuba; and also that the Spanish government manifest, by signal punishments to be inflicted on them, its sense of the misconduct of those of its servants who were concerned in the capture of the said vessel and in the execution of the passengers and crew thereof.

The undersigned hopes to have the pleasure of communicating to his Government, without delay, a satisfactory reply to this note.

The undersigned avails himself, &c.,

D. E. SICKLES.

No. 614.

General Sickles to Mr. Fish.

No. 834.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 16, 1873. (Received December 8.)

SIR: I have the honor to forward herewith a copy and a translation of a note from the minister of state, received yesterday at two o'clock

in the morning, in reply to the protest which, in obedience to your orders, I had addressed to this government on the 14th instant, respecting the slaughter at Santiago de Cuba. You will, perhaps, deem it proper to take some notice of this offensive communication, and I therefore, in addition to the translation, send a copy of the original.

I also inclose a copy of my own reply to Mr. Carvajal, which I hope may have your approval. You will observe that I have confined my observations to a correction of such of the misapprehensions of the minister as seemed to require immediate notice.

In this relation I likewise forward for your perusal a copy and translation of a leading article in "El Imparcial" of the 14th instant. The view taken by this journal is precisely that presented by Mr. Carvajal, and one is at a loss to determine whether the minister inspired the editorial, or the editor wrote the note.

I may remark that the press of Madrid, and indeed of Spain, divides its space between denunciations of the United States, including their representative at Madrid, and praise of the authorities in Cuba for their zeal and fidelity in the discharge of their duty in all this matter of the Virginius.

I am, &c.,

SICKLES.

[Inclosure 2 in No. 834.—Translation.]

Mr. José de Carvajal to General Sickles.

MINISTRY OF STATE,
Madrid, November 14, 1873.

SIR: I have just received your note dated to-day, protesting, in the exercise of your office, in the name of the Government of the United States, and assuming on your own account the voice of humanity, the representation of which does not belong to you exclusively, by reason of the executions which took place in Santiago de Cuba on the 7th and 8th days of this month.

The protest having been presented in general terms, and without relation to any wrong (*agravio*) inflicted on the American Union, the government of the Spanish Republic cannot recognize your competency to make it, even as Spain would have had no such right with respect to the sanguinary acts which have happened in our own day, as well in the United States as in other nations of the old and new continents.

The protest being thus rejected with serene energy, I have to fix my attention upon the harshness of style, and upon the heated and improper words you used to qualify the conduct of the Spanish authorities. If the document subscribed by you lacks the solemnity which might be lent to it by the right to address it to me, the temperance of its form ought at least to have demonstrated that it was not dictated by passion.

I would touch lightly upon this matter if I had only to occupy myself with the sting of the insult, (*ofensa*), but, comprehending its intent, the government cannot consent that, in anticipation of its own judgment, the representative of a foreign nation, even though friendly, should characterize the Spanish authorities in other terms than those which the government itself deems just; an interference always inadmissible, but still more strange when neither the cabinet of Washington nor this of Madrid, nor yourself, have at the present hour sufficient data upon which to ground a complaint, whether concerning the seizure of the Virginius, or in relation to the subsequent occurrences.

Your qualificatory terms cannot even be repeated here, for they would impair the measured tone of this communication; but you will note that, without a knowledge of the facts, it would have been at all times an act of temerity to pass judgment upon the authorities, and that until such knowledge is acquired, it befits the elevation of character you have attained, to consider those as guardians and representatives of the law, while the persons shot were rebels seeking to trample the law under foot, enemies of the country, and disturbers of the peace and of the rule of a sister republic.

Disregarding mere impressions, you should have suspended your opinions, as the government of the republic has suspended its own, for it does not wish to expose itself to the stigma of being hasty and light in such delicate and complex matters. In this attitude it will continue to remain until it acquires full certitude; and you may rest

assured that its spirit will not be altered by any kind of pressure whatever, neither will it be exasperated by your note to the extremity of forgetting what is alike due to the dignity of this country and to that respect for the laws which is above all mere expediency and national susceptibilities.

You conclude by declaring, also by order of your Government, that it will demand ample reparation for any offense committed upon American citizens or upon its flag.

It is to be regretted that you have not maintained under this point of view of problematical reality, the attitude adopted in the verbal conferences to which you make direct reference. In them you confided to the spontaneity and the cordial sentiments of the Spanish government the solution to be given to this incident, which you now, prematurely and with querulous anticipation, bring to the official arena, wherein I shall not fail to maintain steadfastly that the government of the republic is resolved that the law shall be complied with, as well in Spanish territory as in our international relations, and that no disparagement of any right will be tolerated.

I avail myself, &c.

J. DE CARVAJAL.

[Inclosure 3 in No. 834.]

General Sickles to Mr. José de Carvajal.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, November 15, 1873.

The undersigned had the honor, at two o'clock this morning, to receive the reply of his excellency the minister of state to the written protest made by the undersigned, in behalf of his Government, against the proceedings of the authorities at Santiago de Cuba, in putting to death, in a sudden, cruel, and unusual manner, a large number of persons illegally captured on the high seas on board the American ship *Virginus*.

The communication from his excellency the minister of state will be forwarded by the next post to Washington for the consideration and action of the Government of the undersigned.

The undersigned, nevertheless, hastens to remove a misapprehension which seems to have led his excellency to suppose that the language of the protest, and especially the words used to characterize the conduct of the authorities at Santiago de Cuba, were chosen by the undersigned in the expression of his own appreciation of the acts in question. It is, indeed, quite indifferent how the undersigned may describe such events, since the civilized world will not be slow to brand, as it deserves, a violation of human and divine justice, and history will not fail to record the verdict. It may, however, be interesting to his excellency Mr. Carvajal to know that the language of the protest to which he takes exception is a precise transcript from the instructions received by the undersigned from his Government.

And if the undersigned ventures to correct another involuntary error betrayed in the reply of his excellency, it is only because in so doing something may, perhaps, be contributed to a more discriminating estimate of the question at issue between the two governments. When Mr. Carvajal asserts that this government is not in possession of sufficient information respecting the capture of the *Virginus* by a Spanish cruiser and the execution of more than fifty of the persons comprising the crew and passengers on board the vessel, it must be admitted that his authority for the statement is indisputable. But when his excellency proceeds to affirm that neither the Government of the United States nor the undersigned are sufficiently informed of the nationality of the *Virginus* or of the circumstances attending her capture and the punishments inflicted on her officers, crew, and passengers by the authorities of Santiago de Cuba to warrant a reclamation or a protest against those acts, the undersigned can do no less than point out to the minister of state that he thus assumes to speak of matters not within his cognizance and beyond his means of knowledge.

It is not, therefore, surprising that his excellency, while declaring that this government is without the necessary data to determine whether or not the Spanish naval and military authorities have acted within the line of their duty and of public and municipal law, at the same moment denounces the unfortunate victims of a cruel and sanguinary administration as criminals deserving instant death, and applauds the chief actors in the bloody tragedy.

In conclusion, the undersigned must observe that his excellency is also singularly unfortunate in misapprehending the forbearance of the Government of the United States in deferring the presentation of a formal demand for reparation in this transaction. It was not, as Mr. Carvajal seems to suppose, because the Government of the undersigned was unable to measure the atonement due to it, but rather for the reason, twice stated to his excellency, that the President wished to afford an opportunity to the government of the republic, unembarrassed by any exigency save its own sense

of duty, and moved only by a noble sentiment of justice, to make such ample reparation to a friendly power as the laws and usages of nations required.

The undersigned is grateful to his excellency the minister of state for the assurance that the law will be vindicated and maintained in Cuba. The Government of the United States has never ceased to enjoin upon the undersigned to make every appeal and omit no effort that might convince the government of Spain of the urgent need of such measures as would stop the demoralization and ameliorate the situation of that unhappy island. And if at last, under the good auspices of Mr. Carvajal, with the aid of that serenity that is unmoved by slaughter and that energy that rejects the voice of humanity, which even the humblest may utter and the most powerful cannot hush, this government is successful in restoring order and peace and liberty, where hitherto, and now, all is tumult and conflict and despotism, the fame of this achievement, not confined to Spain, will reach the continents beyond the seas and gladden the hearts of millions who believe that the New World discovered by Columbus is the home of freemen and not of slaves.

The undersigned avails himself, &c.

D. E. SICKLES.

[Inclosure 4 in No. 834.—Translation.]

Leading article in "*El Imparcial*" of November 14, 1873.

THE QUESTION OF THE DAY.

When so much is being said of the diplomatic complications in which Spain may become involved by reason of the late events announced to us by telegraph from Havana, it seems to us not improper to touch upon a few considerations suggested to us by the dispatches from Washington, which we found yesterday in the French press, and by that communicated to us last night by the Fabra agency.

Little or no importance has been attached to the interviews the American minister has held with the President of the executive power, and with the minister of state, during the last few days. With that good sense which marks public opinion in all countries when questions that rise above the level of mere party rivalries are under discussion, all have seen that this solicitude of the American minister was completely officious, and we do not know to what degree it reflects the views of his Government. Whatever use the Spanish authorities may make of their power, when their decisions involve persons put under their control by the laws of nationality, or the extraordinary ones of war, certainly no claim is admissible from the representative of another power—least of all if it be a friendly one, and republican, treating, as in the present case, with a nation constituted as a republic.

From this view of the case, the American representative could not attempt any interference without making what would be called in legal language an impertinent demand.

Nor could the seizure of the steamer *Virginus* serve as a pretext for a diplomatic claim, except in case of a capture not having been effected within the conditions established by generally-recognized maritime law, and for such conditions to be called in question by the United States Government it would be necessary to acknowledge that the pirate craft sailed under the protection of the stars and stripes, and with letters of marque—a supposition which can neither enter into the views of the Washington Government, nor indeed would it be lawful, unless preceded by a declaration of war. In any case, there might be a doubt as to whether or not the vessel was captured in jurisdictional waters; but granting this, the right of protest against seizure would belong not to the United States but to England, if such a seizure proved to have been made on the coast of Jamaica. But no such hypothesis can be admitted; for it is known, as has been affirmed by the press, that the capture was effected more than twenty-four miles from the Jamaica coast, and at a time when the vessel was being pursued from the shores of Cuba.

We are confident, then, that there neither does exist any diplomatic claim on the part of the United States touching this matter, nor are there any grounds for such a claim, and all that has been said of late about the affair can only be construed into officious interference on the part of the American minister, fomented, doubtless, by certain deputies anxious to trammel the government, in a spirit of patriotism which the opinion of the country even now estimates at its full value. And if there should be any doubt as to our statement of the case, it would be dispelled by a perusal of the telegrams referred to at the opening of our article.

We find in the *Journal des Debats* a dispatch from Washington, of the 8th, which says:

"Mr. Fish, convinced that the intentions of the Spanish Republic are entirely pacific, will come to no definite determination in the affair of the *Virginus* until exact information of the facts in the case shall have been received."

But lest the above dispatch should be regarded as old news, here is another received only last night :

"Washington, 13.—The ministers have had a protracted council on the affair of the *Virginus*, captured by the Spanish war-steamer *Tornado*. They have resolved not to take any definite action until full official information is at hand."

It is well that the minister for foreign affairs of the American Republic does not call in question the pacific intentions of the government of Spain ; but in so doing he only renders a tribute of justice to our policy, and acknowledges our perfect right to govern ourselves as we please, and, above all, to protect our territory from the schemes of wily filibusters. But it should be observed that on the 13th, the Washington Government must have had at least eight mails from Havana, with official information from their agents touching the capture of the *Virginus*, which these agents might have received as early as the 1st ; and yet the council of ministers of President Grant could come to no decision for lack of official news. At all events, it is not clear on what basis the United States can lay a claim for wounded rights or even a pretext therefor, when their agents in Cuba were unable to furnish information of the supposed outrage on the American flag after the interval of eight days ; moreover, it is not to be supposed that that Government will pretend to make any formal and admissible claim for the acts of severe justice administered in Santiago de Cuba, since, as a colleague pertinently remarks, neither Spain nor any other power has said anything official or officious to the United States for the horrid butchery of the Modoc Indians, commanded or authorized by that Government.

As far as we know, no official claim has been made for these acts, and none is likely to be made. From any nation rather than from the United States, some pretext for interference in our affairs and for trammeling the government of Spain might be expected. There, as in all countries where practical democracy is a fact, public opinion is paramount and cannot be ignored by governments. In this affair, far less than in any other related to European politics, can the Washington Government afford to act self-inspired, and thus jeopardize their popularity. It must not be concealed that the immense majority of the American people are in favor of the consolidation of the Spanish Republic, and it would not be advantageous to the Government of General Grant to oppose that popular current by involving Spain in international complications at a time like this, when our government needs all its strength to solve our internal difficulties.

Furthermore, we do not know how far the American people will complacently regard the officious zeal of their representative in Madrid and his efforts to embarrass the progress of the government, apparently seconding the schemes of the irreconcilable deputies ; for setting aside the fact that this behavior does not correspond with what the government of the Spanish Republic has a right to expect from the American people, it cannot even be justified by instructions from his Government, if the telegram of the Fabra agency be true when it says that the council of ministers which met yesterday in Washington were unable to reach a definite resolution for lack of data. Will Mr. Sickles be likely to have fuller information than his Government ? It is to be supposed that this is not the case, and therefore we attach no importance whatever to these movements of the American representative.

And while we are on the subject of relations with the United States, we are bound to address to Mr. Castelar's government a few patriotic exhortations. Spain was never in a better condition to solve the Cuban question than now. Everybody will call to mind that when we were a monarchy not a day passed but that the Washington Government, under one pretext or another, made claims on us, and not a presidential message was read in Congress but was pregnant with censure and even threats against Spain on her Cuban policy. Since the declaration of the republic in Spain, public opinion has undergone a complete change, and Mr. Castelar would do well to profit by this favorable disposition by putting forth a supreme effort to close out at once the insurrection in Cuba. No government was ever so favorably situated to realize this end ; and should it be attained now, the present government would win laurels for the republic, the only ones, perhaps, the country could justly place to its credit. We at least would not grudge it this glory ; for monarchists or partisans of whatever political doctrine, we are, first of all, Spaniards.

And we will close these lines, dashed off under the impression made on us by the latest news, with one suggestion to the government, who will pardon us on the score of the sentiment that dictates it, though it may be deemed impertinent.

Mr. Sickles holds certain personal opinions on the maintenance of the Spanish flag in America, and without doubt these find an echo in the great republic among a few fanatics, not by any means the most influential, nor, as a consequence, most esteemed, but the vast majority of the American people are more prejudiced against Mr. Sickles's opinions than against Spain.

No. 615.

General Sickles to Mr. Fish.

No. 836.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 16, 1873. (Received December 9.)

SIR: I have the honor to forward herewith a copy of a note passed to the minister of state yesterday, relating to the refusal of the authorities at Santiago to permit our consul there to telegraph to his colleague at Jamaica on the subject of the *Virginus*, and also touching the curt refusal of the captain-general of the island to comply with a request made by the consul-general at Havana, pursuant to orders from the Department of State.

I am, &c.,

D. E. SICKLES.

[Inclosure.]

*General Sickles to Mr. José de Carvajal.*LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, November 15, 1873.

SIR: I regret to have occasion to invite the attention of your excellency to another instance of the misconduct of the authorities at Santiago de Cuba, in refusing to allow the consul of the United States at that place the use of the telegraph for the purpose of obtaining information from his colleague, the American consul at Kingston, Jamaica, respecting the voyage of the *Virginus*, which testimony was desired for the information of his Government, and was material and pertinent to the defense of persons captured on board that vessel, and then in the custody of said authorities, charged with grave offenses.

And I have also to represent to your excellency that the consul-general of the United States at Havana, having been directed by the Secretary of State to use his good offices in obtaining for any citizens of the United States on board the *Virginus* the legal privileges and protection guaranteed to them by the treaty of October 27, 1795, communicated the instructions he had received from his Government to the captain-general, requesting the sanction and aid of that officer in the performance of the duties made obligatory on the respective governments by the treaty. To this reasonable and proper request the captain-general returned a curt refusal.

It is by such acts that the authorities in Cuba have made the government of the republic responsible before the civilized world for a course of procedure in that island in which scores of men have been put to death without heeding any of the ordinary precepts of justice recognized by all nations, and observed in Spain itself, notwithstanding the existence here of a civil war of far greater proportions than can be attributed to the conflict in Cuba.

I have on more than one occasion, in obedience to the instructions of my Government, pointed out to your excellency and to your worthy predecessors the refusal of the authorities in Cuba to afford to the consular officers of the United States proper facilities for the execution of their duties in behalf of American citizens having need of the interposition and aid of the authorized representative of their country. I have been assured again and again that orders had been transmitted to the captain-general of Cuba requiring a better observance of the rights of American citizens and of the amenities due to consuls when acting in aid of justice and supported by the faith of solemn treaties. And I shall be glad if your excellency will inform me whether my Government is to regard the recent action of the captain-general and of the commanding officer at Santiago de Cuba as consistent with the line of conduct these authorities have been instructed to adopt on occasions like those which I have now, in the performance of my duty, brought to the notice of the government of the republic.

I avail myself, &c.,

D. E. SICKLES.

No. 616.

General Sickles to Mr. Fish.

No. 839.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 16, 1873. (Received December 9.)

SIR: I have the honor to forward a copy of a note addressed to the minister of state, and placed by Mr. Adee in the hands of an officer at the ministry this afternoon at five o'clock, in which I have executed so much of your instruction dated yesterday and received this morning as seemed to me might with advantage be made the subject of an official communication at this moment. I hold in reserve for the right occasion, should it be presented, the other important intimations contained in the instruction mentioned.

I am, &c.,

D. E. SICKLES.

[Inclosure.]

*General Sickles to Mr. José de Carvajal.*LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, November 16, 1873.

The undersigned regrets to have occasion to inform his excellency the minister of state that more and more executions of persons seized on board the *Virginus*, an American ship recently captured on the high seas by the Spanish cruiser *Tornado*, continue to take place at Santiago de Cuba by the action and with the sanction of the Spanish authorities. According to the intelligence received at Washington from the United States consul-general at Havana, a number of the passengers of the *Virginus* were shot on the 12th instant; it also appears, from the reports published in the Havana journals of the 14th, that fifty-seven other prisoners have been executed, and that only some eighteen out of the whole number of one hundred and sixty-five comprising the crew and passengers of that vessel may, perhaps, escape death. At the same time it is stated by the consul that no official information had been received.

The undersigned is directed to communicate this report to the minister of state. It would be extremely satisfactory if, for the information of his Government, the undersigned were authorized by Mr. Carvajal to rectify, by means of more authentic official data, the statements of the daily papers in Havana, published, it is believed, under the censorship of the authorities of that place.

And the undersigned, in obedience to the orders of his Government, must observe that if, unhappily, these reports are confirmed, such repeated violations of the assurances heretofore given to the undersigned increase the necessity of that full and speedy reparation on the part of the government of Spain which the United States ought of right to receive.

The undersigned would fail to discharge an impressive and solemn duty imposed upon him at this critical moment if he concealed the grave peril to which, in the judgment of the President, the friendly relations of the two countries may be exposed unless the undersigned is enabled without delay to convey to his Government a satisfactory reply to the reclamations he has addressed to his excellency the minister of state respecting the unjustifiable capture of the *Virginus* and the proceedings of the authorities in Cuba in killing, without trial, day after day, a score or more of persons illegally arrested on the high seas while under the American flag.

The undersigned, &c.,

D. E. SICKLES.

No. 617.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 16, 1873.*

Informed minister of state officially by note of the further executions mentioned in your cable of 15th. President Castelar sent me a message by his secretary, stating that the captain-general, in a telegram of same date, denies truth of report.

SICKLES.

No. 618.

General Sickles to Mr. Fish

[Telegram.]

MADRID, November 16, 1873.

Mr. Layard informs me he has received instructions from his government concerning seventeen British subjects among the crew of the *Virginus* executed, and seven more under sentence of death, the latter all minors. Of the seventeen dead, six were executed immediately on the arrival of the *Virginus* in port. A British frigate is ordered to Santiago.

SICKLES.

No. 619.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 17, 1873.

It is important that Government be in possession of actual text of correspondence between you and Spanish ministry on subject of *Virginus*. You will therefore send by special messenger all such correspondence to London, so as to reach there and be telegraphed thence in cipher on the 25th of this month.

Anything important after your messenger leaves, which could reach here before 1st December, you will communicate by cable, unless you can secure accurate transmission to this capital by that date through some other channel.

FISH.

No. 620.

General Sickles to Mr. Fish.

No. 842.]

UNITED STATES LEGATION IN SPAIN,
 Madrid, November 17, 1873. (Received December 11.)

SIR: I have the honor to forward herewith a copy and translation of a note received yesterday from Mr. Carvajal, under date of 15th instant, assuring me that the necessary orders have been sent to Cuba to permit our consul to have access to the American citizens made prisoners on the *Virginus*, and to assure to them the guarantees of the treaty of 1795, as requested in my note of the 11th instant, of which a copy accompanied my No. 815.

I am, &c.,

D. E. SICKLES.

[Inclosure.—Translation.]

Mr. José de Carvajal to General Sickles.

MINISTRY OF STATE,
 Madrid, November 15, 1873.

SIR: In answer to the note you were pleased to address me under date of the 11th instant, expressing the wish that the government of the republic should give the

necessary orders to the authorities of the island of Cuba, to the end that no difficulty should be put in the way of permitting the consul of the United States to visit and confer with the American citizens who may have been found among the passengers and crew of the steamer *Virginus*, I have the honor to inform you that, immediately after becoming acquainted with the note to which I refer, the executive power hastened to send the proper orders to the aforesaid authorities of Cuba, enjoining them, besides, very particularly to be careful to extend to all the American citizens comprised among the passengers and crew of the *Virginus* such guarantees and means of defense as are allowed by our judicial procedure and are conceded by the treaty of 1795 to American citizens.

I improve this occasion, &c.,

J. DE CARVAJAL.

No. 621.

General Sickles to Mr. Fish.

No. 843.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 18, 1873. (Received December 11.)

SIR: I have the honor to forward herewith a copy and a translation of a note dated yesterday, and received to-day, from the minister of state, in reply to the communication I addressed to his excellency on the 15th instant, in compliance with your instruction dated the day before, demanding reparation for the unjustifiable capture of the *Virginus* and the punishments illegally inflicted on her officers, crew, and passengers.

I send these under cover to Mr. Moran, with the request that he will without delay cable to you the translation in cipher, and, if so ordered by you, the Spanish text in the original.

I am, &c.,

D. E. SICKLES.

P. S.—I have appointed Lieutenant-Commander Kennett, of the Navy, a special bearer of dispatches for this purpose, deeming the occasion a proper one for the exercise of this discretion, and have advanced to him \$100 in gold for his expenses, of which a due account will be rendered.

D. E. S.

{Inclosure.—Translation.}

Mr. José de Carvajal to General Sickles.

MINISTRY OF STATE,
Madrid, November 17, 1873.

SIR: Your communication, dated yesterday, demanding satisfaction in favor of the United States, which you worthily represent, for the capture of the steamer *Virginus* and the executions which have taken place at Santiago de Cuba, contains certain deficient or erroneous preliminaries which it is proper to set right in all their integrity, so that due appreciation may be had of the attitude of the Spanish government from the time those occurrences came to its notice.

On the 6th instant the capture of the vessel was known in Madrid; and at once (*en el acto*) the government sent a telegram to his excellency the captain-general of Cuba, enjoining that no sentence of death should be carried into execution without the approval of the said government.

This order implied no doubt concerning the justice of the proceeding and the punishment; it was the expression of the desire which animated the executive power to examine whether in any of those extreme cases it was possible to harmonize with the action of the law and with public safety the exercise of clemency, which prerogative is usually delegated by our colonial legislation to the captain-general.

The spontaneity of this step, anterior to any action, and even to any knowledge

of the matter as far as you were concerned, was recognized by the Government of the United States and by yourself, as I had the honor to hear from your own lips on the 8th instant, in the conference which you call official, and which was held after you and this government had received information of the shootings of the 4th, which unfortunately took place two days before the said telegram, and of which the news did not reach Madrid until the day succeeding the dispatch of the same.

You certainly declared in that conference that your Government did not take the initiative in any reclamation, and awaited until that of the Spanish Republic, animated by the cordiality of the relations which exist between the two nations and by elevated sentiments of justice, should come to a decision respecting any wrong which may have been committed against the citizens or the flag of the United States; and certainly I stated unreservedly, but without prejudice to any point of fact or of right, that the Spanish government, by its own dignity, by the estimation in which it holds the friendship of the American people, and by the respect it owes to special treaties and the rules universally admitted among cultured nations, would not await the presentation of any justified complaint, but rather, had those compacts or international laws been violated, it would declare the fact, loyally and frankly, for right and honor are never to be crushed down, nor is reason to be subordinate to dignity; but it is likewise certain that you agreed with me that the Spanish government, which only knew the facts generally, in order to appreciate the international question, the only one which might have authorized your intervention, needed to acquire a certitude as to the events and details both of the seizure and of the subsequent acts; an agreement which meant neither more nor less than that the *Virginian* might be seized and her crew and passengers condemned by Spanish tribunals (these being the facts then known) without any violation of international laws or treaties, and that, on the part of the American Government and on your own, there only existed a presumption that those occurrences were surrounded by circumstances capable of inflicting injury on the persons or on the dignity of your flag, by reason of not being in conformity with the proceedings of the said laws and treaties; an evident sign that you ought not to have cherished the confidence, to which you refer in the first paragraph of your note, that forthwith there would be given to the Government you represent complete reparation for the offense committed against its dignity and the inviolability of its flag.

You may have nursed this mental confidence, which was never expressed, because you had a conviction that the Spanish government did not, and does not yet, share therein; but I appeal to your loyalty to establish as the bases of these negotiations, that, in the name of the executive power on my part and in that of your Government on yours, we agree to postpone all discussion until we had a knowledge of the facts which might give rise to a debate, and until you were informed of the solution which would be spontaneously offered by the government of the Spanish Republic.

You omit to mention the second conversation we had on the 13th, and to which I have to refer, without being aware whether you consider it official or no, because I am endeavoring to re-establish the truth of the preliminaries, and the Government of the republic neither objects to giving that character to all the antecedents of this matter, nor will it permit outside judgment to exercise the right of conceding or denying it.

In this fresh conference you know what public opinion had already proclaimed—the act of justice performed on other prisoners of the steamer *Virginian* on the 7th and 8th, and the assurance possessed by the executive power, in the midst of the regret which is ever occasioned by the action of the law in this degree, even though justified by melancholy social exigencies, that its telegram of the 6th had not arrived in time to prevent the fulfillment of the sentences, and that it would suspend the execution of any other that might be pronounced. You neither added to nor took away from your declaration of the 8th, and I reiterated mine, and we parted in the same assurances, continuing the question on the same bases established in the preceding conference.

In this situation of affairs, twenty-four hours afterward, I received from you the communication to which I now reply, in which, in the name of the President of the United States, you demand the restoration of the *Virginian*, the release and delivery of the surviving prisoners, and the salute, at the same time, of the American flag in the port of Santiago de Cuba, and an exemplary punishment of the authorities concerned in the capture and in the executions.

This demand is not in accordance with the antecedents and the attitude which we had agreed in establishing, and which were ratified (confirmed) the previous day. As the mere seizure of the *Virginian*, and the subjection of her crew and passengers to the Spanish tribunals, did not constitute an offense against the Government of the United States, this offense must be sought in the procedure and accessory circumstances, of which the executive power is yet ignorant.

This change of conduct and the demand of the Government of the United States cannot be interpreted in any other sense than that, for its part, it has acquired this knowledge, and considers that the capture and the subsequent occurrences are vitiated by reason of having failed to conform to the stipulations (of the treaty) or to international law.

The Government of the United States knew the disposition of the Spanish government at that time, and the sentiments by which it was animated. It appeared natural that, on the first of the governments deciding to hasten the solution and to terminate the period of delay agreed upon, it should have pointed out to the second these violations and informalities, under the faith of which the violation, being proven, would have been condemned; and this procedure seemed more proper, in view of the bonds which unite the two republics, than to demand, without ground of right and in an imperious manner, a reparation whose harsh and even humiliating terms could only have been justified by great wrongs and a continued repugnance to satisfy them. The national decorum cannot tolerate the supposition that any other nation, and least of all the United States, linked since their origin by such happy ties with Spain, should confound us with the nations who submit to this kind of compulsion.

Prudence counsels both governments to suspend judgment. That the United States do not possess at the present time a legal competency to peremptorily demand a reparation, is evident in many ways; but it is sufficient to say that another power has presented, in a suitable manner, analogous reclamations, arising from the same affair, the grounds of which remain to be investigated; and if it were necessary to show the confusion which still reigns upon the essential facts of the seizure, we could take as an example that, while you take it for granted (patent) that the *Virginus* was a regularly-documented American ship, his excellency the captain-general of the island of Cuba asserts the contrary.

You will observe, moreover, that only ten days have elapsed since we knew of the capture of the *Virginus*, and three since the executions of the 7th and 8th came to our knowledge and we held our last interview.

The great distance, the scanty (or difficult) telegraphic communication, and the necessity of obtaining clear and precise data upon an affair complex and minute in itself, combine to prevent the government of Spain from being to-day in condition to say a word on the merits of this question, it being remarkable that the United States should so suddenly overstep the bounds marked out, and, in spite of its previous assent, now demand an arbitrary reparation, arbitrary, at least, at the present moment.

Spain, in reply, limits herself to repeating her former declarations:

1st. She will decide upon nothing to relieve the flag of the United States from an offense till she is certain that the offense exists.

2d. As the offense cannot exist except in the violation of the treaties and of international law, she again declares, as much for the sake of quieting foreign dignity as for the relief of her own conscience, that if such a violation exists by reason of the seizure of the *Virginus*, or by reason of the subsequent acts, whether her conviction of such violation be acquired by her own initiative or by a specific statement made by the Government of the United States, she will be glad to repair the wrong according to its just importance, thus proving that the reign of law, be its judgments favorable or adverse, is the first essential to national honor, and that the observance of the law, and not the obstinacy born of a false idea of pride, gives the right to assume a place in the senate of cultured nations.

I avail myself, &c.,

J. DE CARVAJAL.

No. 622.

General Sickles to Mr. Fish.

No. 844.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 18, 1873. (Received December 11.)

SIR: I have the honor to forward herewith a copy and a translation of a note received to-day from the minister of state, in reply to mine of the 16th instant, in which I invited his attention to the reports published in the Havana papers of the 14th, from which it appears that more of the persons captured on board the *Virginus* had been shot, leaving only some eighteen survivors of the whole number taken. These statements receive, as you will observe, a vague denial, which is weakened by the consideration that such reports, in relation to a matter so conspicuous and of so much importance, if erroneous, could not have escaped the very rigid censorship of the press at Havana.

The remainder of the note seems to be an amplification of the minister's

reply to our demand for reparation, in which he assumes that the Government of the United States is as ignorant of the facts of the case as his excellency professes himself to be.

I am, &c.,

D. E. SICKLES.

[Inclosure.—Translation.]

Mr. José de Carrajal to General Sickles.

MINISTRY OF STATE,
Madrid, November 18, 1873.

SIR: I have received your communication, dated the 16th, which has for its principal object to state that, according to information received in Washington, having reference to the newspapers of Havana, of which the consul-general of the United States gives intelligence to his Government, fresh shootings had taken place on the 12th instant at Santiago de Cuba, the number of which ascended to forty-seven, there remaining alive only some eighteen of the persons captured on board of the *Virginus*.

I have the satisfaction to state to you that this fact is not accurate, and that, on the contrary, the government of the Spanish Republic holds assurances that as soon as the captain-general of the island could compass the arrival at Santiago of the orders which were sent to him on the 6th, the execution of the sentences of death was suspended.

This want of agreement between the information received by the Government of Washington and by that of Madrid will prove to you how fully our attitude is justified, and how high a confirmation the United States would give of their wisdom and prudence in awaiting a full clearing-up of the facts in order to know if an offense has been committed, the extent of its importance, upon which side it is found, which party should hasten to make reparation, and the nature of the reparation.

If in so grave and conspicuous a matter as the shooting of forty-five men such grave errors occur and such doubts arise, how can there not be grounds for feeling these doubts and dreading those errors in questions of greater delicacy, the investigation of which is more difficult, and which demand a special knowledge of the circumstances!

It cannot be said that the point has been sufficiently discussed, and that an undoubted conclusion has been attained, making an act of satisfaction to the American flag a palpable act of justice, whilst it is yet unknown if this flag waved rightfully above the captured vessel, or to a certainty the point where the chase began, the place where the seizure was effected, the authenticity of the vessel's papers, whether she was surprised in the act of disembarkation, and other circumstances indispensable, as general conditions, to determine the existence of the offense and to characterize it.

One fact alone is definitely known, and is admitted by all the world. The *Virginus*, which has already obtained a lamentable reputation in the Cuban struggles, had been equipped in order to aid the insurrection, in the territory of a friendly nation; she had been laden with arms and munitions, and the most prominent rebels were on board of her.

I improve this opportunity, &c.,

J. DE CARVAJAL

No. 623.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 18, 1873.

Minister of state informs me, in note of this date, that the reports mentioned in your cable of 15th are not confirmed, and that, on the contrary, as soon as the captain-general could transmit to Santiago the orders sent by this government on the 6th, the executions were suspended.

SICKLES.

No. 624.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 18, 1873.*

Correspondence with this government about *Virginus* forwarded by special messenger to Paris last Sunday night. Have ordered Stevens to turn over dispatches to London legation, for transmission in cipher.

SICKLES.

No. 625.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 18, 1873.*

Minister of state replies to-day, under date of 17th, to my note of 15th, making demand in terms of your cable of 14th.

After an inaccurate statement of our negotiations, minister, in reply to the demand, declares—

First. That Spain will take no resolution until she is satisfied an offense has been committed against the flag of the United States.

Second. If it shall hereafter appear that, in violation of treaties or of the law of nations, an injury has been done, Spain will cheerfully make due reparation.

Regarding this as a refusal within the sense of your instruction, I propose, unless otherwise ordered, to close this legation forthwith, and leave Madrid, embarking at Valencia for France, taking the secretary and archives with me.

SICKLES.

No. 626.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 18, 1873.*

Will send to-morrow to London legation translation of reply to demand for reparation, to be cabled in full. Will also send Spanish text, which will not be cabled without your orders.

The reply is an invitation to enter upon a discussion of the questions involved, for which this government will be prepared as soon as it obtains a knowledge of the facts. Complaint is made that our demand is not supported by proofs and argument. The demand is characterized as without foundation, imperious, arbitrary, compulsory, and humiliating. And it is contended that the United States are not, in the present condition of the case, legally competent to present a peremptory reclamation.

In my cable of this morning I gave you the substance of the two enu-

merated declarations with which the note concludes. I now repeat them :

First. Spain will come to no decision until satisfied an offense has been committed.

Second. When so convinced through her own sources of information, or by the showing of the United States, due reparation will be made.

SICKLES.

No. 627.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 18, 1873.*

If my departure forthwith is approved, please cause orders to be cable to Admiral Case, at Nice, to come to Valencia at once and convey me and my family to a port in France.

SICKLES.

No. 628.

General Sickles to Mr. Fish.

No. 846.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 19, 1873. (Received December 11.)

SIR: I have the honor to forward herewith a copy and translation of a note, dated yesterday and received to-day, from Mr. Carvajal, in reply to my answer to his note of the 14th, rejecting the protest made against the inhumanities practiced at Santiago de Cuba.

I am, &c.,

D. E. SICKLES.

[Inclosure.—Translation.]

Mr. José de Carvajal to General Sickles.

MINISTRY OF STATE,
Madrid, November 18, 1873.

SIR: You having presented, under date of the 15th, the same day on which you also answered my reply of the 14th to your protest of the same date, reclamations based upon the seizure of the *Virginus* and the shooting of a certain number of her crew and passengers, the correspondence in relation to the protest might be considered terminated and merged in the correspondence upon the reclamation, did not the truth of the facts and a just appreciation of the conduct of the Spanish government make it fitting to call your attention to the unfounded supposition you advanced, that I "applaud the chief actors in the bloody tragedy," (I presume this means the Cuban authorities,) and that I denounce "the unfortunate victims of a cruel and sanguinary administration" (I presume this refers to the prisoners shot) "as criminals deserving instant death."

I need to render evident the inexactitude of these appreciations. In the note to which you reply there was not an idea or a word which could have made such appreciations valid, and my opinion remains the same as before, that until the facts are obtained to give a new phase to the question it is more proper to have confidence in the authorities than to censure them, and still less denounce them for the sentences they have authorized to be executed.

As to the applause, it would be characteristic of hot-headed persons and not of the executive power, which keeps within the limits of a prudent and polite reserve; and

as to whether the delinquents deserved the penalty they suffered, when the law speaks the government should be silent, and this government should not admit a doubt that the application of the law has been just, although rigorous, as long as it is ignorant of the character of the crime in each case, the details of the proceedings, and the relation between the crime and the punishment.

Your attribution to me of opinions I could not have ventured to put forth, not only involves a suggestion that the proceedings may have been irregular, but it also tends to disculpate the captured persons from all criminality, whereas in every way, and from every point of view, those who rise in arms against a regularly-constituted government and foment insurrection in its territory are criminals, whose delinquency is not diminished by the legitimate and elevated sentiments excited by their misfortune.

I improve this occasion, &c.,

J. DE CARVAJAL.

No. 629.

General Sickles to Mr. Fish.

No. 847.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 19, 1873. (Received December 15.)

SIR: I have the honor to forward herewith, for the completion of the series of communications passed between Mr. Carvajal and myself in the affair of the *Virginus*, a copy of the private note to the minister, written at the foreign office on the afternoon of the 6th instant, and referred to in my dispatch No. 804.

I am, &c.,

D. E. SICKLES.

[Inclosure in No. 847.]

General Sickles to Mr. José de Carvajal.

Private.]

MADRID, November 6, 1873.

DEAR MR. CARVAJAL: Having read in the Gazette of this morning the announcement of the capture of the *Virginus* some six miles off the coast of Jamaica, I have thought it proper to inform you that a question recently occurred in regard to a vessel of that name lying in the harbor of Aspinwall, and upon consideration it was held by my Government that she was a regularly documented American ship. In view of the fact that this capture seems to have been made on the high seas, and of the probability that the vessel may belong to the mercantile marine of the United States, I beg to suggest, in advance of any information or orders from my Government on the subject, that it might be well to direct the authorities in Cuba to abstain from any further proceedings respecting the ship or any persons captured with her until the orders of this government may be communicated to the captain-general. I make this suggestion in the interest of the friendly relations between the two countries, and in order to avoid any possible complications in the disposition of the case, should it prove to be one in which my Government may have occasion to send me instructions.

Regretting that I have not the pleasure to meet you in your office, and especially that you are detained from the ministry by indisposition,

I remain, &c.,

D. E. SICKLES.

No. 630.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 19, 1873.

Sent you three dispatches by cable yesterday. No reply received. I wait instructions.

SICKLES.

No. 631.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 19, 1873.*

Popular feeling runs high here against United States and this legation. Press violent and abusive, advising government to order me out of Spain. Last night a mob was collected to attack and sack the legation. The authorities interfered and preserved the peace.

SICKLES.

No. 632.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 19, 1873.*

Spain asked the good offices of England. Lord Granville declined, unless on the basis of ample reparation made to the United States.

SICKLES.

No. 633.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 19, 1873.*

Madrid papers this evening announce as by authority that the question of the *Virginus* is postponed by agreement with the United States until Congress meets.

SICKLES.

No. 634.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 19, 1873.*

Correspondence sent to London on the 16th is due there to-morrow. It includes several telegrams which you may desire to have repeated; also the Spanish text of the reply to our protest, which I hope you will order cabled in the original, as it will best show the temper of this government.

SICKLES.

No. 635.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 19, 1873.

Your telegrams of last evening received. An instruction will be sent immediately.

FISH.

No. 636.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 19, 1873.

Consul at Havana telegraphs that the report of further executions communicated by him and mentioned in my telegram of 15th is officially contradicted, and that until 13th the total number of executions was fifty-three, thus confirming minister's statement in note to you.

Last evening Spanish minister communicated to me, by direction of his government, a telegram of yesterday's date, delaring the resolution of his government to abide by the principles of justice and to observe international law, to comply with the letter of treaties and to punish all those who shall have made themselves liable to puinishment regardless of their station, and to make reparation if right should require it, urging at the same time that a knowledge of facts is necessary to proceed with the judgment required by the gravity of the case, and that the news which had reached them, like that received here, must be confused.

The telegram to the Spanish minister is subsequent in date to the minister's note of 17th to you, and may be regarded as a reconsideration or later decision of the government. Appreciating this fact, and determined to continue to be right in the position he has assumed, the President holds that the demand for a proper length of time to learn the exact state of the facts is reasonable. In view of this request you will defer your immediate departure from Madrid, and await further instructions.

FISH.

No. 637.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 20, 1873.

Instruction sent yesterday by cable authorizes you to defer closing legation in order to allow a reasonable time to Spanish government to ascertain facts in response to their request through minister here, presented on 18th instant. No other postponement has been agreed to, and minister was informed that a satisfactory settlement would be expected by 26th.

FISH.

No. 638.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 20, 1873.

Have received rejoinder of minister to my reply to his note in answer to our protest. Neither this nor either of the three communications in writing so far received contains any expression of regret or disapproval of the capture or the slaughter at Santiago. The press approves the whole business, and denies that any censure or regret has been expressed by this government. The ministerial journals acquiesce.

SICKLES.

No. 639.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 20, 1873.

If permitted to offer a suggestion with reference to your instruction of the 19th, I would remark that the tone, temper, and substance of the written communications made to me by the minister of state are very different from the apparent purport of the telegram sent to the Spanish minister in Washington and communicated to you. The refusal to say a word about the merits of the case, in a reply to a demand repelled as arbitrary, inadmissible, and humiliating, was announced to me here on the same day that different professions were made to you. Mr. Carvajal's notes to me are exhibited here as showing the real position of this government. They are offensive in form and unsatisfactory in substance. If we hesitate, it will be asserted and believed in Spain and Cuba that we pause before the defiant attitude assumed by this government and people. This boast will be supported by the official and formal declarations of this cabinet in reply to communications I have made to it, in obedience to your instructions. Misapprehending our forbearance, Spain would abuse any success obtained by duplicity and delay, and show herself more than ever arrogant and regardless of our rights and dignity.

On the other hand, any concession now obtained at Washington will appear to corroborate the intimation made here in high quarters and generally believed, that my action in the matter of the *Virginus* has not been in conformity with the instructions I have received and is not approved by my government. I have the best reasons for the opinion that my prompt withdrawal from Madrid in default of the reparation the President has directed me to demand will convince Spain we are in earnest, and she will yield to our terms and peace may be honorably preserved. The fact that Spain holds one attitude here and presents another in Washington on the same day would seem to impeach her sincerity, and this dissimulation I am sure is due to the fear of a diplomatic rupture or something worse. This cabinet have already obtained all the information they will ever get from Cuba about this transaction.

The Italian government has kindly consented to allow Count Maffei, chargé d'affaires of Italy in Madrid, to take care of American interests here, and accept the custody of the library and property of this legation, on application being made, by your authority, through our minister in Rome. I hope you will make the request, and that this courtesy may be duly acknowledged.

SICKLES.

No. 640.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *November 21, 1873.*

Your telegram, suggesting a possible difference of attitude on the part of Spain in Madrid, and here, which you think calls for your withdrawal from Madrid, and asking a request to the Italian government to authorize its representative to take care of our library at Madrid, has been laid before the President, who decides that public interests require that you should remain at your post until expiration of time heretofore named, or until further orders. If a difference exists, as you suggest, the President feels it his duty to take into consideration the representations made at Washington, which approach most nearly to compliance with our just demands, and he depends upon you to co-operate with our efforts to induce Spain to make such concessions as may avert a rupture between the two republics, without questioning the sincerity of the Madrid cabinet. It will not be possible to send a vessel to Valencia.

FISH.

No. 641.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 21, 1873.*

Constant efforts are made by this cabinet to conciliate England. Castelar is every day at the British legation. The press has received an official hint to contrast the moderation of England with our impatience. I suspect overtures have been made also to Germany for her good offices.

SICKLES.

No. 642.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 21, 1873.*

Your instruction of 20th received. In accordance therewith, I propose to defer any reply to Mr. Carvajal's note of the 17th until the 26th, unless otherwise ordered.

SICKLES.

No. 643.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 23, 1873.*

Your instruction of this date received.

Have cabled to Schenck an unofficial note I wrote minister on the 6th. It will be repeated to you from London. I cannot but feel you will attach some importance to the timely and considerate intimation then conveyed in the most friendly manner to this government.

SICKLES.

No. 644.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *November 23, 1873.*

Have telegraphed to Rome for authority to Italian minister to take custody of library and property.

Spanish government, through minister here, proposed arbitration, which has been declined on the ground that the question is not one for arbitration, the subject being one of national honor, of which the nation must be the judge and custodian.

FISH.

No. 645.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 24, 1873.*

If you send order to leave, please instruct me whether I am to reply to Mr. Carvajal's notes of the 17th and 18th, or make any other communication to this government besides the announcement of my departure. Impression general in Madrid that this matter is settled.

SICKLES.

No. 646.

Mr. Fish to General Sickles.

[Telegram.]

DEPARTMENT OF STATE,
Washington, *November 25, 1873.*

If upon the close of to-morrow no accommodation shall have been reached in the case of the *Virginius*, you will address to the foreign office a note expressing regret at the delay of the reparation asked for,

and stating that, in conformity with instructions from your Government, you were under the necessity of withdrawing from Madrid, for which purpose you request the usual passport for yourself, your family, and *suite*.

If, however, the accommodation desired should be brought about in the course of to-morrow, either here or in Madrid, you will, until otherwise directed, abstain from addressing the note adverted to.

Should a proposition be submitted to you to-morrow, you will refer it here, and defer action until it be decided upon.

A telegram has just now been read to me by Admiral Polo, which gives reason to hope for a satisfactory accommodation.

You will, therefore, allow the whole of to-morrow to pass before addressing your note.

FISH.

No. 647.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 25, 1873.

Layard says Granville has expressed his sense of the justice and moderation of the reparation we have demanded, and this has been communicated to Castelar. England reserves her reclamation for the present, and endeavors to promote a settlement of the question pending between the United States and Spain.

SICKLES.

No. 648.

General Sickles to Mr. Fish.

No. 875.]

UNITED STATES LEGATION IN SPAIN,
 Madrid, November 26, 1873. (Received December 23.)

SIR: I have the honor to forward herewith a copy of a note of this date, which, in compliance with your previous instructions, I addressed to the minister of state, asking for my passports. It was placed in the hands of the minister at the palace this afternoon, a few minutes after 2 o'clock, by the secretary of legation, Mr. Adee.

Mr. Carvajal stated that a communication had been made to me of this date, and desired to know whether it had reached me before my note was sent to him. Mr. Adee replied that up to the moment when he left the legation nothing had been received from his excellency.

Subsequently I informed the minister that, in view of his communication, which was delivered at the legation at half-past 2 p. m., he might defer any reply to my request until it should be renewed, if, unhappily, the negotiation now resumed on fresh bases failed, and I should be constrained again to take the same step.

Your latest instruction on this point, dated yesterday, was not received here until half-past 4 this afternoon.

I am, sir, &c.,

D. E. SICKLES.

[Inclosure in No. 875.]

General Sickles to Mr. José de Carvajal.

MADRID, November 26, 1873.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, reserving to his Government such observations as it may see fit to make on the several communications addressed to the undersigned by his excellency the minister of state respecting the matter of the *Virginus* and the penalties inflicted on her crew and passengers, is instructed to terminate his mission and leave Spain, taking with him the archives of this legation. The undersigned has, therefore, to request that his excellency the minister of state will kindly grant him the usual safe-conduct to the Spanish frontier for himself and the secretary of legation, including the household and effects of the undersigned.

The undersigned avails, &c.,

D. E. SICKLES.

 No. 649.
General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 26, 1873.

At 2 this morning I have a message from President Castelar that a note will be sent to me to-day recognizing the principles on which our demand is based, and promising to make the reparation we require on or before the 25th of December, if the facts elicited by the investigations now being made by this government show that the *Virginus* was a regularly-documented American ship.

In reply I expressed my apprehension that the proposed delay would not be acceptable, and suggested that this government should receive our declaration of the nationality of the ship and make the reparation immediately. Nevertheless, I said that on receipt of such a communication to-day I would inform you of it, and assume the responsibility of deferring my departure until the further orders of the President.

My belief is that the real object of this overture is to gain time to strengthen the Spanish fleet in the Gulf of Mexico and send troops to Cuba, and that at last some pretext will be found to evade the reparation. The fall of Carthagena, which is daily looked for, is expected to liberate the home squadron and the besieging army.

SICKLES.

 No. 650.
General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 26, 1873.

Your instruction of 25th received at 4.30 this afternoon.

I have informed minister that this proposition has been communicated to you by cable, and that he is at liberty to defer a reply to my request for passports until I renew it.

SICKLES.

No. 651.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 26, 1873.

At half-past 2 this afternoon, half an hour after I had asked for my passports, I received a note, dated to-day, from minister of state, in which he says :

First. If it appear, on or before the 25th of December next, that the *Virginus* rightfully carried the American flag and that her documents were regular, Spain will declare the seizure illegal, salute the flag as requested, and return the ship with the surviving passengers and crew.

Second. If it be proved that the authorities of Santiago de Cuba, in their proceedings and sentences pronounced against foreigners, have essentially infringed Spanish legislation or treaties, this government will arraign those authorities before competent tribunals.

Third. Any other reclamations growing out of the affair which either of the respective governments may have to present will be considered diplomatically, and, if no agreement be reached, they will be submitted to the arbitration of a third power, named by mutual consent.

Fourth. If the 25th day of December shall have expired without the Spanish government having resolved, in so far as comes within its province, the questions arising out of the demand for reparation, it will hold itself bound to accord such reparation the same as if the right of the United States to require it were recognized, and such reparation will be given in the form specified in the first and second paragraphs.

SICKLES.

No. 652.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 26, 1873.

After a careful perusal of the note of this date, I have to suggest that it means substantially that if the authorities in Cuba cannot, within thirty days, furnish some allegation on which a debatable issue can be made respecting the papers of the *Virginus*, this government will order them to release the ship and prisoners and deprive them of their employments. It will also be observed that no purpose is indicated to punish the officer responsible for the capture, and that the authorities at Santiago may be arraigned before a Cuban tribunal, whose decision would be final.

SICKLES.

No. 653.

General Sickles to Mr. Fish.

No. 878.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 27, 1873. (Received Dec. 23.)

SIR: I have the honor to forward herewith a translation of the note received yesterday from the minister of state, of which the original

went forward last night with my No. 876. A full summary of Mr. Carvajal's four propositions for an adjustment of the *Virginus* issue was telegraphed to you yesterday.

I am, &c.,

D. E. SICKLES.

[Inclosure in No. 878.—Translation.]

Mr. José de Carvajal to General Sickles.

MINISTRY OF STATE,

Madrid, November 26, 1873.

SIR: The undersigned, minister of state and member of the executive power of the Spanish Republic, has the honor to state to General Sickles, minister plenipotentiary and envoy extraordinary of the republic of the United States of America, that it alike befits the loyalty of the relations happily existing between these two nations, and the importance the question of the *Virginus* has acquired in official circles and in public opinion, to declare that, although the Spanish government has not attained, within the brief space of ten days that has elapsed since the note of the 15th, in which was formulated the demand for reparation preferred by the American Government, that full certitude of the injuries inflicted which the dignity of both governments requires in order that the extent of the reparation be proportionate to the wrongs committed, or even to permit of the existence of such wrongs being made manifest, it already possesses sufficient data for the hypothetical determination of the satisfaction it deems just, in the cases of injuries in which representations have been recently made by the friendly republic, and, at the same time, to give public testimony that it has no desire to indefinitely postpone an act which, being one of justice, and based on a violation of the international laws that unite and shelter all nations, is of interest also to Spain, so frequently injured by the want of observance of that law to which she must also turn in moments like the present in order that she may regain her integrity of action, and to the provisions of which she would at heart feel ill-fitted to appeal had she beforehand infringed or evaded them.

When you were informed, both verbally and in writing, that the government was not prepared to redress wrongs of the commission and importance of which it was not first convinced, but that at the same time it held the firm resolution to give satisfaction for them, in accordance with the duties imposed upon it by universal law or particular treaties, it was not my intention to give indefinite range to an affair the prompt settlement of which was important to all; neither did I even suspect that you or your Government entertained such a doubt. The proof of our sincerity is that to-day, having already a fuller knowledge of the matter, and the assurance that it will be completely known within a short time, we come of our own accord to say to the Government of the republic of the United States that before the 25th of next December we shall have made clearly evident the right that is on our side, or, with the same spontaneousness, we shall have recognized its right to demand a reparation on the following bases, with the understanding that if we can do so sooner, the national good faith stands pledged that we shall not retard the immediate fulfillment of our promises.

First. If it be proved that the *Virginus* rightfully carried the American flag, and that her papers were in regular form, we shall declare her seizure illegal, salute the American flag in the manner desired, and return the *Virginus* with the surviving crew and passengers.

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

Third. Any other reclamations which may be preferred in the same matter by either of the two governments shall be considered diplomatically, and if an agreement be not reached, they shall be submitted for judgment to a third, named by mutual consent.

Fourth. If the 25th day of December expire without the Spanish government having, for its part and in so far as may be within its province, resolved the question raised by the demand for reparation, it will thereupon, and does now beforehand, consider itself bound to grant reparation the same as if it had recognized the right of the Government of the United States to exact it, and such reparation will be given in the form prescribed in the first and second bases.

These purposes are in perfect harmony with those which from the first have been exhibited in the course followed by the executive power, and I am confident that, being frankly expressed and cordially accepted, they will suffice to banish all disquietude and susceptibilities, leaving the dignity of the two republics unimpaired, and strengthening the bonds that unite them.

I avail myself, &c.,

J. DE CARVAJAL.

No. 654.

General Sickles to Mr. Fish.

No. 886.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 27, 1873. (Received Dec. 23.)

SIR: I have the honor to forward herewith a translation of a private note from Mr. Carvajal at a late hour last night, and a copy of my reply thereto, in relation to the suspension of official action on my request for my passports.

I am, &c.,

D. E. SICKLES.

[Inclosure 1 in No. 886.—Translation.]

Mr. José de Carvajal to General Sickles.

Private.]

MINISTRY OF STATE, PRIVATE CABINET,
November 26, 1873.

MY DEAR GENERAL: A common friend has given me to understand that the note I sent you this morning at an early hour had not reached your hands when at 2 o'clock in the afternoon you sent me yours asking your passports, and that it would be agreeable to you if action were not taken (*no se diera curso*) on the latter.

For my part, I can assure you that this would also be very satisfactory to me, and I beg that you will kindly let me know if I may do so, thus accomplishing the desires of both.

I repeat, &c.,

J. DE CARVAJAL.

[Inclosure 2 in No. 886.]

General Sickles to Mr. José de Carvajal.

Private.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 26, 1873.

MY DEAR MR. CARVAJAL: In reply to your note of to-night I have to state, in view of the communication received from you this afternoon at half-past 2, soon after I had asked for my passports, that you are at liberty to defer any reply to my note until the request be renewed, if unhappily our negotiations fail, and I should be constrained again to take that step.

I am, &c.,

D. E. SICKLES.

No. 655.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *November 27, 1873.*

The Senate of the United States, on the 16th of June, 1858, unani-
mously adopted a resolution in these words:

Resolved, (as the judgment of the Senate,) That American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong, and therefore any visitation, molestation, or detention of such vessel by force, or by the exhibition of force, on the part of a foreign power, is in derogation of the sovereignty of the United States.

After the passage of this resolution, Great Britain formally recognized the principle thus announced, and other maritime powers and writers on international law all assert it.

FISH.

No. 656.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 28, 1873.*

Am without reply to my telegram to you of 26th. Have reason to assure you that this government is ready to yield our terms of reparation. Hope to announce this result to you this afternoon.

SICKLES.

No. 657.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 28, 1873.*

Your plain instruction London of yesterday is just received, as also your cipher telegram of same date.

In conformity to your instruction of the 25th, I have awaited your orders in reply to the propositions cabled you at 5 in the afternoon of the 26th. Assuming that you regard them as inadmissible, I propose, unless meanwhile I receive other instructions from you, to renew my request for my passports at 3 o'clock this day.

SICKLES.

No. 658.

General Sickles to Mr. Fish.

No. 887.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 28, 1873. (Received December 23.)

SIR: I have the honor to forward herewith copies of communications recently exchanged between the Count Maffei, the Italian chargé d'affaires in Madrid, and myself, respecting the authorization granted to the former by the cabinet of Rome to take charge of the effects of this legation and of American interests in event of my departure from Spain.

I am, sir, &c.,

D. E. SICKLES.

[Inclosure 1 in No 887.]

General Sickles to Count Maffei.

Confidential.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 24, 1873.

MY DEAR COUNT: I conveyed to my Government the intimation you kindly gave me, that if a request were made by the President through the diplomatic channel, leave would be granted to you to take charge of the effects of this legation, if an occasion should arise to ask your good offices in that regard.

In reply I am informed that my Government has sent such a communication to that of His Majesty the King of Italy.

I will thank you to acquaint me with the further instruction you may receive on this subject, and I in turn shall not fail to give you timely notice of my movements.

I am, &c.,

D. E. SICKLES.

[Inclosure 2 in No. 867.]

Count Maffei to General Sickles.

Confidential.]

ROYAL LEGATION OF ITALY,
Madrid, November 26, 1873.

MY DEAR GENERAL: I hasten to inform you, in reply to your note of yesterday's date, that I have just received a telegram from my government by which I am authorized to take charge of the archives of the United States legation and of American interests and subjects, should you be compelled to leave this country.

This intimation is made to me in consequence of an official communication addressed to the Italian government by Mr. Fish; and while expressing the hope that the present difference may yet receive an amicable as well as satisfactory solution, I need not tell you how highly honored I feel by the confidence you have placed in me, and how earnestly I shall direct all my efforts, in the event of a complication, to deserve that of your Government and of any of your countrymen.

I thus hold myself at your entire disposal, and remain, &c.,

A. MAFFEI.

[Inclosure 3 in No. 867.]

*General Sickles to Count Maffei.*UNITED STATES LEGATION IN SPAIN,
Madrid, November 28, 1873.

MY DEAR COUNT: I have the honor to acknowledge the receipt of your kind note of 26th instant, in which you acquaint me of the favorable action of your government in response to the request of the United States, authorizing you to take charge of such American interests here as might need protection in the event of the possible interruption of diplomatic relations between the United States and Spain.

I thank you sincerely for the cordiality and frankness with which you have signified your readiness to undertake this task, should the emergency unhappily arise.

To-day I am able to state, at least semi-officially, that the question of the *Virginus* may be regarded as having reached a diplomatic solution, which I trust will be promptly followed by the acts of reparation agreed upon, thus avoiding any necessity to trouble you with an addition to your important duties.

Believe me, &c.,

D. E. SICKLES.

No. 659.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 28, 1873.*

Last night it was agreed here informally that, accepting my declaration of the nationality of the *Virginus*, reparation would be made in accordance with our demand of the 15th instant. This was ratified by the council of ministers at 3 this morning, and I was promised an official communication in that sense to-day. I am now informed in a note from the minister of state that yesterday you authorized the Spanish minister in Washington to convey to this government a different proposition on the part of the United States, and that it has been accepted, of which you have been notified through Admiral Polo. Please let me know whether that statement is true.

The only instruction I have had from you since my four telegrams of the 26th, is a copy of the Senate resolution passed in fifty-eight.

SICKLES.

No. 660.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 28, 1873.

When your dispatch of 5 afternoon of 26th was received, it was supposed here that you had left Madrid, inasmuch as you informed me you had then demanded your passports. I therefore gave the reply of this Government in a written memorandum to Admiral Polo, the substance of which was that it would not assent to the proposition which allowed Spain to hold the vessel and survivors while seeking evidence to justify the capture, assigning reasons therefor to him to be communicated to his government. Admiral Polo informs me this morning that his government says that negotiations are renewed in Madrid. Since then I received at 4 this afternoon your telegram of this morning announcing that you should request your passports at 3 to-day. The supposed negotiations must therefore drop at Madrid and be conducted hereafter here.

FISH.

No. 661.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 29, 1873.

Your telegram of 28th received this morning.

Note dated yesterday from minister of state, mentioned in my telegram of 9 last night, contains following statement:

"Admiral Polo, duly authorized by Mr. Fish, informs me that the United States Government would admit an accommodation on the basis of the immediate return of the *Virginius* and the survivors, reserving the salute of the flag to be performed if the Spanish government do not prove to the satisfaction of the United States, before the 25th of December next, that the *Virginius* had no right to carry the American flag."

Minister adds that the initiative in this proposition was taken by the Spanish government, founded on assurances received from you, through Admiral Polo, that the United States were disposed to entertain any reclamations or complaints Spain might have to make for the acts of the *Virginius*, and, on being informed that you accepted their bases, the executive power had telegraphed the admiral yesterday afternoon confirming the arrangement. Mr. Carvajal concludes with congratulations on this happy termination of the affair.

I have to remark that, this government having been advised by the most eminent jurists of Spain and by the European powers that the reclamation of the United States was supported by public law, the negotiations would have been terminated here yesterday before 3 in the afternoon on the basis of your instructions to me if this government had not supposed that it had obtained better terms in Washington pending the negotiations in Madrid. If you are not too far committed, you have only to insist upon your original terms to obtain them.

It is to be regretted I was not notified of the negotiations in Washington. The English legation here is better informed by its government of what transpires in Washington on this subject than this legation.

I beg that the receipt of this telegram may be acknowledged.

SICKLES.

No. 662.

General Sickles to Mr. Fish.

No. 893.]

UNITED STATES LEGATION IN SPAIN,
Madrid, November 29, 1873. (Received December 26.)

SIR: I have the honor to forward herewith some further correspondence with the minister of state.

On the night of the 27th it was informally agreed that, on a declaration made by me of the American nationality of the *Virginus*, the vessel and surviving passengers and crew would be delivered up, the flag saluted, and the other measures of reparation accorded in conformity with our demand of the 15th instant. With this understanding my note under date of 26th instant was written, and placed in the hands of Mr. Carvajal at 4 in the morning of the 28th. In order that no time should be lost, I intimated to the minister of state, through a friendly channel, that I expected an immediate reply, and unless it was received before 3 in the afternoon I would feel constrained, in obedience to my instructions, to renew the request for my passports. The council of ministers had meanwhile ratified the arrangement, and a draught of a protocol was prepared.

At noon Mr. Carvajal sent to me, by the hands of Mr. Rivero, a copy of a telegram that moment received from Admiral Polo, containing what purported to be a fresh proposal from yourself, agreeing to reserve all other questions on the immediate surrender of the *Virginus* and survivors. This proposition, the minister stated, was at once accepted, and of this you had been instantly notified through the Spanish minister in Washington. In the afternoon I received from his excellency an official confirmation of this announcement, in the note of which you will find a translation in appendix B.

I am, &c.,

D. E. SICKLES.

[Inclosure 1 in No. 893.]

General Sickles to Mr. José de Carvajal. (Sent in November 28, 1873—3.50 a. m.)

LEGATION OF THE UNITED STATES OF AMERICA.

Madrid, November 26, 1873.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the note addressed to him to-day by his excellency the minister of state. Reserving to his Government, to whom the purport of the communication has been made known by cable, such reply as the President may direct to be made, the undersigned cannot do less than express his satisfaction in seeing what he hopes he may regard as a step toward an honorable settlement of the questions arising out of the capture of the *Virginus*. The undersigned understands the government of the republic to accept as just and reasonable the terms of reparation proposed by the United States in the note which the undersigned had the honor to address to Mr. Carvajal on the 15th inst. It remains only for the government of the republic to satisfy itself that the nationality of the vessel

is ascertained. Upon this point, which undoubtedly is the essential one in the case, the undersigned begs to observe that the delay suggested for the purpose of obtaining testimony from Cuba to establish a fact already sufficiently certified seems quite unnecessary. Such evidence as might now be derived from the scene of the transaction would be secondary, inconclusive, and incompetent: Secondary, because, unhappily, the officers of the *Virginius*, the lawful custodians of her papers, are all dead; inconclusive, because it cannot be expected that those who are responsible for the catastrophe will furnish proof of their own misconduct; incompetent, because there is no judicial tribunal in Cuba by which the lawfulness of the capture can be determined. A prize-court cannot have jurisdiction of the case, since prize-courts exercise their powers only between belligerents, and belligerents and neutrals, in time of war. War is not recognized as existing in Cuba, and Spain has been the foremost in denying that either party to the conflict enjoys, or is entitled to enjoy, belligerent rights.

The undersigned has heretofore declared, and he now repeats the declaration in the name of his Government, that the *Virginius* was at the moment of her capture on the high seas a regularly-documented American ship. The assertion of a government which has accorded to a vessel the right to sail under its flag is the best evidence of her nationality. Every such ship is registered in the public archives. It cannot be supposed that any respectable state would volunteer its protection to those having no right to claim it. Nor is it usual when, in a case like this, the injured government affirms the nationality of the ship, to put that averment in issue and demand proof as a preliminary to the consideration of reclamations for an affront offered to its flag.

The undersigned, therefore, submits to the enlightened judgment of Mr. Carvajal, that, in harmony with the usage and comity of nations, Spain may well dismiss all controversy as to the nationality of the *Virginius*, accepting as indisputable the fact that she was a regularly-documented American ship, and, moved by the traditions of a friendship uninterrupted for a century, proceed at once to accord to the United States that measure of reparation which she has already loyally recognized as befitting her own dignity and due to an ancient ally.

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

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

[Inclosure 2 in No. 893.]

Mr. José de Carvajal to General Sickles. (Received November 28, 1873—5.30 p. m.)

[Translation.]

MINISTRY OF STATE,

Madrid, November 28, 1873.

SIR: The undersigned, minister of state and member of the executive power of the Spanish Republic, has the honor to state to General Sickles, envoy extraordinary and minister plenipotentiary of the republic of the United States of America, that he has received his communication dated the 26th, replying to the propositions made on the same day for the settlement of the question of the *Virginius*, and stating that you had communicated them by telegraph to Washington for the decision of His Excellency the President of the United States.

I had great pleasure in the perusal of your note, which was inspired by the highest sentiments of honor and dignity, and I would have especial satisfaction in treating fully the doctrinal points contained therein, if, happily, I had not to-day received from the minister of Spain in Washington a telegram, which I must, first of all, hasten to bring to your knowledge, as well as the determination of the executive power.

Mr. José Polo de Bernabé, duly authorized by Mr. Hamilton Fish, informs me that your Government, animated by the best desires of conciliation, would admit a settlement on the basis of the immediate return of the *Virginius* and the survivors, reserving the salute of the flag to be performed if the Spanish government do not prove to the satisfaction of that of the United States, before the 25th of December next, that the *Virginius* had no right to carry the American flag.

In reaching these conclusions the initiative was taken by the Spanish government, and was indicated in a telegram addressed to our representative, being founded upon the noble and loyal words uttered by Mr. Fish in his interviews with the same, that if Spain had any complaints or reclamations to make, by reason of the acts of the *Virginius*, the United States were prepared in that case to apply the provisions of international law, and to prove that, being ever determined to do justice, they held the purpose to observe toward the Spanish republic a reciprocal and cordial friendship.

The executive power has confirmed its acceptance of those bases by means of a telegraphic message, which I am at this moment sending to Mr. Polo.

Knowing, as you do, the sincerity with which the executive power desires to draw closer the affectionate relations existing between the two republics, there is no need for me to impress upon you the satisfaction I feel on beholding the honorable and happy termination of a question which might have had grave consequences had not kindly ties and kindred political interests served as mediators between the two countries, and, permit me to add, had there not been at the head of the friendly nation and of its representation in Madrid minds fully up to the high level of their epoch.

I improve, &c., &c.,

J. DE CARVAJAL.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

No. 663.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 29, 1873.

Telegram of 9 in the evening of 28th received only this morning. Late last night Spanish minister informed me of proposal embracing all that was in demand of 15th, with a slight variation and provision for mutual consideration of reclamation and investigation of conduct of parties, which proposal was accepted, and this morning had been reduced in form of protocol, signed. Particulars will be sent by post.

Your telegram of 9 in the morning was not received until 11 this morning.

FISH.

No. 664.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, November 29, 1873.

Remain at post. Further instructions soon. Settlement being effected here.

FISH.

No. 665.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, November 29, 1873.

At half past 10 to-night received your telegram of to-day, directing me, in plain, to remain at post.

It is announced here that settlement has been made in Washington, on basis of return of vessel and captives, leaving all other questions for subsequent adjustment.

SICKLES.

No. 666.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *November 30, 1873.*

General Pieltain denies that he directed the capture of the *Virginus*, and asserts that the order was given by the commanding officer of the fleet to take her wherever found.

SICKLES.

No. 667.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 1, 1873.*

The arrangement with Admiral Polo is the following :

The *Virginus*, and the survivors of passengers and crew, are to be restored forthwith. The United States flag to be saluted by Spain on the 25th December. If Spain before then satisfies the United States that the *Virginus* was carrying the flag at the time of capture without right, the salute will be spontaneously dispensed with ; but Spain in such case is to disclaim an intent of indignity to our flag.

In the same event the United States will institute inquiry and adopt legal proceedings against the vessel, if it be found that she has violated any law of the United States, and against any person who may appear to have been guilty of illegal acts in connection therewith.

Spain is to proceed against the persons who committed the acts complained of in Santiago de Cuba, according to the second proposition made to you, and communicated in your telegram of 27th November, and to arraign them before competent courts, and to inflict punishment on those who may have offended.

Other reciprocal reclamations are to be made the subject of arrangement, and in case of disagreement are to be the subject of arbitration, if the Senate assent.

The time, manner, and place for the surrender and for the salute to be subject of arrangement within two days.

These details are sent in answer to your telegram of 4 in the afternoon of the 29th November.

FISH.

No. 668.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 2, 1873.*

The two days agreed upon in the protocol signed with Spanish minister for arranging details have passed, and minister has not full instructions, and has asked a short extension. It is hoped the delay is acci-

dental and has been unavoidable, but it gives rise to grave apprehension of the failure of the friendly accommodation to which this Government acceded on the request of Spain. You will see minister at once, and assure him of the President's disappointment at this delay, and that if he assent to any extension, it is in the interest of a continuance of friendly relations with the republic of Spain, but can be only for the most limited period. That he relies upon the immediate execution of the engagement to forthwith surrender the vessel and the survivors of her passengers and crew, and that delay cannot be regarded otherwise than as inconsistent with the engagement.

FISH.

 No. 669.

[Circular.]

 DEPARTMENT OF STATE,
 Washington, December 3, 1873.

To the diplomatic officers and consuls-general of the United States :

I herewith inclose a copy of the President's message to Congress, and of an accompanying protocol* of a conference between the Secretary of State and the Spanish minister. I invite your particular attention to the latter. There is no reason to believe that Spain will find herself unable to comply with her engagements to the United States respecting the *Virginus*; yet it is proper that your attention should be called to the emergency, which it is hoped has now passed away, in order that you may exercise vigilance in watching the course of future events.

Your obedient servant,

HAMILTON FISH.

 No. 670.

Mr. Fish to General Sickles.

No. 415.]

 DEPARTMENT OF STATE,
 Washington, December 3, 1873.

SIR : I inclose copies of Consul-General Hall's Nos. 6 and 8.†

Respecting the former, which states that a guard of Spanish marines was placed at the consulate of the United States at Santiago de Cuba, you are instructed to bring the subject verbally to the attention of the Spanish government, and to ask the reason for the unusual course.

Respecting the latter, which sets forth the difficulty which Mr. Hall labors under in holding communications with the superior political governor in Cuba, I have to say that in the present juncture it does not appear to us that it is either prudent or a mark of good-will to throw impediments in the way of a free intercourse on pending questions between the principal representatives of the two governments in Cuba.

You may make this matter the subject of unofficial conversations, in the belief that the matter will be viewed at Madrid in the same light as here.

I am, &c.,

HAMILTON FISH.

 * See correspondence with Spanish minister, *infra*.

 † See correspondence with Mr. Hall, *infra*.

No. 671.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 3, 1873*—6 p. m. (Received 9 p. m.)

President Castelar informs me now that powers have been sent this afternoon to Spanish minister in Washington to negotiate the place, day, and hour of the delivery of the *Virginius* to United States.

SICKLES.

No. 672.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 3, 1873*—4 p. m. (Received Dec. 3.)

Your instruction of yesterday received at 11 this morning. Minister of state informs me at 4 this afternoon that orders have been sent to Spanish minister in Washington for the execution of the stipulations of the protocol of the 29th ultimo relative to the surrender of the vessel.

SICKLES.

No. 673.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 4, 1873.*

Minister's instructions are represented to instruct him to consult with authorities in Havana, and sign agreement, to be reported to Madrid. You will see minister and represent the urgency of the case. You will say, in a friendly spirit, that we rely upon the good faith of Spain to execute her engagement. At her request the United States extended the time for the agreement, as to details, but that further delay on her part will give rise to painful apprehension. You will urge immediate and positive instructions to minister to sign agreement as to details to carry out the stipulations of the protocol.

Your telegrams of yesterday received.

FISH.

No. 674.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 5, 1873.* (Received 7.40 a. m., Dec. 6.)

Your instruction of yesterday received at 10.30 this morning. Interview with minister at 3 this afternoon. He said order sent Wednesday to Polo directed him to consult Minister Soler in Havana about place of surrender, and leave time to be named by you. He said Polo had full authority to act as soon as place should be determined. Minister said, in conclusion, he preferred to let his previous orders stand, but he would direct Polo to lose no time in coming to an understanding with Soler and signing further agreement with you.

SICKLES.

No. 675.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 6, 1873.* (Received 3 p. m., Dec. 6.)

It is published semi-officially that the Government disapproves of my conduct in the case of the *Virginus*. If, in the opinion of the President, my resignation would facilitate a satisfactory termination of that question, or be otherwise advantageous to the public interests, such resignation may be considered as hereby respectfully tendered.

SICKLES.

No. 676.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 6, 1873.*

The alleged publication of disapproval of your conduct is unauthorized. No dissatisfaction has been expressed or intimated, and it is deemed important that you remain. Your resignation at this time would not be accepted, as it would interfere with the prospects of an accommodation.

FISH.

No. 677.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 8, 1873.*

Agreement has been signed fixing the time, place, and manner of the surrender of the *Virginus* and surviving passengers and crew.

FISH.

No. 678.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 15, 1873—4.30 p. m.* (Received 3.20 p. m.)

President Castelar called at the legation this afternoon and informed me that the *Virginus* and survivors had been surrendered to those authorized to receive them on the part of the United States.

SICKLES.

No. 679.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 16, 1873.* (Received late p. m.)

I respectfully request that my telegram of 6th instant tendering my resignation, and your reply of same date, may be now published.

SICKLES.

No. 680.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 17, 1873.*

Your tender of resignation was only hypothetical, and your telegram referred it to alleged publications, unknown here, attributing dissatisfaction which had not been expressed.

Under these circumstances publication is not deemed necessary, and cannot be authorized.

FISH.

No. 681.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 18, 1873.*

Official information of surrender of Virginius on Tuesday, pursuant to agreement.

FISH.

No. 682.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 20, 1873--1 a. m.*

I respectfully renew the tender of my resignation, which I trust may be accepted now without interfering with the prospects of an accommodation.

SICKLES.

No. 683.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 20, 1873—12.30 a. m.*

(Received December 20—10.20 a. m.)

It is stated here by authority that, in consequence of a communication this government has received from that of the United States, in which it appears the *Virginus* is not an American ship, a reclamation will be made by Spain for the restoration of the vessel and passengers.

SICKLES.

No. 684.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 20, 1873.*

Your resignation will be accepted. Letter of recall, with instructions, will be forwarded by next mail.

The Attorney-General decides that the *Virginus* was not rightfully carrying the flag of the United States at the time of her capture; consequently the salute will be spontaneously dispensed with.

FISH.

No. 685.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, *December 20, 1873.* (Sent 11.20 a. m.)

Official advices received of surrender of survivors from *Virginus*.

FISH.

No. 686.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *December 26, 1873.* (Received Dec. 26, — p. m.)

My resignation having been accepted, I now respectfully renew my request for the publication of the correspondence relating thereto, comprising my telegrams of the 6th, 16th, and 20th instant, and your replies of the 6th, 17th, and 20th. I beg that this request may be submitted to the President.

SICKLES.

No. 687.

Mr. Fish to Mr. Adee.

No. 425.]

DEPARTMENT OF STATE,

Washington, December 31, 1873.

SIR: On the 26th ultimo General Sickles's No. 893 arrived at this Department during my absence for the holidays. In it he states that it was informally agreed, on the night of the 27th of November last, that on a declaration made by him of the American nationality of the *Virginus*, the vessel and surviving passengers and crew would be delivered up, the flag saluted, and the other measures of reparation accorded in conformity with our demands of the 15th instant. It is greatly to be regretted that General Sickles did not state with whom this informal agreement was made.

The note of Mr. Carvajal, minister of foreign affairs, which accompanies General Sickles's dispatch, does not convey the idea that he had been a party to that agreement, but does intimate that he would have discussed some of the points raised in General Sickles's note but for the arrangement which was made here.

General Sickles further says, that at noon on the 28th of November Mr. Carvajal sent him a copy of a telegram from Admiral Polo, containing what purported to be a fresh proposal from me respecting the *Virginus*, which General Sickles appears to have supposed was in conflict with the informal arrangement of the previous evening.

Without more accurate information concerning the person with whom the informal arrangement was made I cannot permit myself to think that the Spanish government receded from any undertaking which it had once assumed.

So far, however, as General Sickles's statement may be supposed to affect this Government, it is proper to say that the changes from the original demands of the United States which were agreed to in the protocol of the 29th of November were adopted on the suggestion of the Spanish government, under the belief that they did not affect the principles upon which our demands were founded, and were calculated to promote a peaceful settlement of the unfortunate differences which had arisen between the two powers.

Spain having admitted (as could not be seriously questioned) that a regularly-documented vessel of the United States is subject on the high seas in time of peace only to the police jurisdiction of the power from which it receives its papers, it seemed to the President that the United States should not refuse to concede to her the right to adduce proof to show that the *Virginus* was not rightfully carrying our flag. When the question of national honor was adjusted, it also seemed that there was a peculiar propriety in our consenting to an arbitration on a question of pecuniary damages.

This happy adjustment of the differences between two sister republics, on a basis honorable to both, fortunately makes the matters referred to by General Sickles of little importance. I have thought it right, however, to correct the misapprehensions under which his dispatch seems to have been written.

I am, sir, &c.,

HAMILTON FISH.

No. 688.

General Sickles to Mr. Fish.

No. 971.]

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

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

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

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

I have, &c.,

D. E. SICKLES.

 II.—CORRESPONDENCE AND NEGOTIATIONS WITH THE SPANISH LEGATION AT WASHINGTON.

No. 689.

*Mr. Fish to Admiral Polo de Bernabé.*DEPARTMENT OF STATE,
Washington, November 12, 1873.

ADMIRAL: This Department has received a telegram from an official source, representing that the captain of the *Virginus*, so called, thirty-six of the crew, and sixteen other persons, were shot on the 7th and 8th instants. This information relates to an act apparently too shocking and cruel to be credible. I am in hopes that more authentic intelligence may have reached you, which would tend to discredit the statement referred to. I will consequently thank you to relieve, as soon as you conveniently can, our natural anxiety upon the subject.

I avail, &c.,

HAMILTON FISH.

No. 690.

*Admiral Polo de Bernabé to Mr. Fish.*LEGATION OF SPAIN AT WASHINGTON,
Washington, November 12, 1873.

The undersigned, minister plenipotentiary of Spain, has the honor to inform the honorable Secretary of State, in reply to his note, that he has received no advices, either official or unofficial, of the executions by shooting referred to in the honorable Secretary's dispatch of this date, which he has just received now—that is to say, at 5 o'clock in the afternoon.

The undersigned, in hastening to reply to the aforesaid note of the honorable Secretary of State, avails himself of this occasion to renew to him the assurances of his most distinguished consideration.

JOSÉ POLO DE BERNABÉ.

No. 691.

(Handed to Mr. Fish by Admiral Polo de Bernabé November 15, 1873.)

[Telegram.]

FROM CUBA.

I. The *Virginus* had no crew's roll, and was wanting in the usual papers required of merchant-vessels.

II. The order from the government could not reach Santiago de Cuba in time, owing to the destruction of the telegraph-wires by the insurgents. On the 12th the captain-general received a telegram from Santiago de Cuba dated the 6th, and this was the date of the first instructions from the government. On the 14th the admiral received the news of the executions of the 9th. Ordinary communications have been quicker than those sent by telegraph.

The case of the *Virginus* is equal or similar to those of the *Guana-ham* and *Margaret Jersey*, and the admiral assures that in the record of the proceedings, of which he already has possession, the act of piracy is fully proved, and that the crew made no secret of the truth of their hostile intent and purpose.

FROM MADRID.

The government is not in receipt of sufficient particulars in reference to the case of the *Virginus*. It will act in strict conformity with international law.

No. 692.

The minister of state to the minister plenipotentiary at Washington.

[Telegram.]

(Received November 17, 11.45 p. m.)

Be pleased to inform the honorable Hamilton Fish that the government of Spain, always respecting law and international usages, is disposed to make amends for any violation of either which may have been committed in the case of the *Virginus*; its honor, however, and the in-

tegrity of those principles forbid its adopting a final resolution until all the circumstances which determined the capture shall be known, for it feels sure that if this capture was made in conformity to law, the Government of the United States will approve it, together with its legitimate consequences, just as that of the Spanish Republic, in the contrary event, will hasten to give such satisfaction as may be required to make amends for the interests which have been injured, and to soothe the national susceptibility, which in that case will have been justly alarmed.

No. 693.

Admiral Polo de Bernabé to Mr. Fish.

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
Washington, November 18, 1873. (Received November 18.)

The undersigned, minister plenipotentiary of Spain, has the honor to inclose to the Hon. Hamilton Fish, Secretary of State of the United States, a literal copy of a telegraphic dispatch which he has received from the minister of state, with express orders to communicate it to him.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurance of his most distinguished consideration.

JOSE POLO DE BERNABÉ.

Secretary of state, Madrid, to Spanish minister at Washington.

[Inclosure—Telegram.]

(Received at 1.30 p. m., November 18, 1873.)

I am anxious for you to say to Mr. Fish, and that you should endeavor to make him understand in the way you may deem most expedient, all the reasons Spain has for proceeding as she does in the matter of the *Virginus*.

We are resolved to abide by the principles of justice, to observe international law, to punish all those who shall have made themselves liable to punishment, regardless of their station; to ask reparation for offenses that may have been done against us, and in our turn to make due reparation if right and our own conviction should so advise us. But a knowledge of facts is necessary to proceed with the tact and judgment required by the gravity of the case, and the news which reaches the United States must be confused as that we receive here.

We are informed that a conspiracy has been discovered in Cuba, which was to have acted in concert with the arrival of the vessel, which had already, on former occasions, landed supplies of war and filibustering expeditions, and, on this very occasion, had not her papers in order. That the declaration of the captain affirms a new conspiracy directed against the integrity of our soil in a vessel passing for American, and covered by a flag of a friendly nation. If, therefore, on the one hand, such facts as these have come to light, and we, before making any complaint, await conclusive intelligence, the United States, on the other hand, if they complain that their flag has been insulted, that one of their vessels has been captured, that executions have taken place, and that in these executions treaty stipulations have been ignored, should wait until everything is made clear.

The reparations we may have to make, or those we may ask for, require time and the knowledge of facts. Assure, therefore, the Government of the United States, in the most positive manner, that, resolved upon the preservation of the integrity of our territory and the dignity of our nation, we are also determined strictly to comply with the principles of international law, the letter of treaties with all nations, and, consequently, with the American Republic.

No. 694.

From the secretary of state, Madrid, to the Spanish minister, Washington.

[Telegram.]

(Received 20th November, at 11.30 a. m.)

Your telegram received. Telegraph me daily.

Say to Mr. Fish that I have received your said telegram, and that Spain would most cheerfully have anticipated reparation as soon as she should have become conscious of the offense, but since Mr. Fish deems it advisable that the settlement of the question shall have been advanced before the assembling of Congress, we, desirous of proving our good faith, have no objection whatever to submit the question to an arbitration, the arbitrator to be any one of the European powers the Government of Washington may choose to appoint, and the vessel to be surrendered into the hands of the arbitrators, in proof of our purpose to abide by the decision.

Say that it is not exact that we are not obeyed in Cuba. We can adduce two decisive proofs. First, from the time the orders were received, executions were suspended; second, since the receipt of another order, the restoration of embargoed property to citizens of the United States is being actively proceeded with. Consequently, you may, as well as that Government, (of the United States,) have the assurance that whatever may tend to a satisfactory solution shall be done both here and in Cuba.

In order to sustain the necessity for an arbitration, say that the information which reaches us is generally contradictory to that which is transmitted to Washington, as, for example, that which refers to the papers of the vessel; and, although we have made use of the telegraph, it is evident that these contradictions cannot be rectified except by testimony, the transmission of which is impossible by telegraph.

Insist on the good faith these points embrace, and comprehend all the importance of your mission in these moments in which the country confides in your intelligence.

No. 695.

Admiral Polo de Bernabé to Mr. Fish.

LEGATION OF SPAIN,
Washington, November 20, 1873.

The undersigned, minister plenipotentiary of Spain, has the honor to inclose to the honorable Hamilton Fish, Secretary of State of the United States, a literal copy of a telegraphic dispatch from the minister of state at Madrid, with express orders to communicate it to him.

The undersigned avails, &c.,

JOSÉ POLO DE BERNABÉ.

[Inclosure.]

[Telegram from secretary of state, Madrid, to Spanish minister, Washington, 20th November, 1873. Received at 6.45 p. m.]

No apprehension need be entertained of difficulties arising from the presence in Cuban waters of United States war-vessels.

Spain is at this day respected in Cuba, and we are now sending the most peremptory orders.

I await with impatience your reply to my telegram of last evening proposing arbitration.

No. 696.

MEMORANDUM.

FRIDAY, *November 21, 1873.*

Admiral Polo had an interview with Mr. Fish with reference to the intimation in the telegram from the secretary of state at Madrid to the admiral which the latter had handed to Mr. Fish yesterday afternoon, that Spain would have no objection whatever to submit the question to an arbitration, &c., &c.

Mr. Fish remarked that while the Government of the United States was most sincerely and earnestly desirous of an amicable and honorable adjustment of the question and was ready to refer to arbitration all questions which are properly subjects of reference, the question of an indignity to the flag of the nation, and the capture in time of peace on the high seas of a vessel bearing that flag and having also the register and papers of an American ship, is not deemed to be one which is referable to other powers to determine; that a nation must be the judge and the custodian of its own honor, and that he could not doubt that Spain herself, ever sensitive to the protection of her own honor, and ready to do justice, would appreciate the impossibility of the reference of such a question, and that until atonement be made to the wounded dignity and sovereignty of this Government, it cannot entertain a proposition of arbitration by reference to other powers.

He referred to the fact that, in the case of the arbitration with Great Britain on the Alabama claims, Her Majesty's government had tendered an atonement to the injured sensibilities of the Government and people of the United States, which was accepted by them as satisfactory before any arbitration was assented to.

He referred also to the absence of any proposition or expression of readiness to release or surrender, together with the vessel, the survivors of those captured on the *Virginus*, and expressed regret not to find in the communication some expression of the disapproval, which he was sure the government of Spain must feel, of the hasty execution of so many of those who had been captured.

Referring to the suggestion that the expression of willingness on the part of Spain thus to refer was induced by Mr. Fish's opinion that it was advisable that the settlement of the question should have been advanced before the assembling of Congress, Mr. Fish remarked that he did most certainly feel the importance of the earliest possible settlement of a question which has aroused the indignation of an entire people, and which is threatening the friendly relations of two nations, but that a proposition to refer to arbitration was a measure of delay and postponement, not one of advancement, but would continue the existing irritation on either side, and would tend further to endanger the relations between the two governments.

He referred to the execution, in contravention of the provisions of the treaty of 1795, of American citizens captured on board the *Virginus*, and the refusal to them of the rights guaranteed by that treaty of the services of advocates and of the presence of agents at their trial and at the taking of examinations and evidence, and to the detention of those captured under the flag of the United States who had escaped the cruel and hasty executions which the authorities at Madrid would never justify.

With reference to the statement that the restoration of embargoed estates was being actively proceeded with, Mr. Fish remarked that he

had no knowledge that such was the fact; on the contrary, his information led to the belief that, notwithstanding the assurances which had been given that they should be released, they are still, at this moment, held by the authorities in Cuba.

Mr. Fish renewed in the strongest terms the expression of the desire of his Government for a friendly settlement of the pending questions, and its hope that the reparation which was asked and confidently expected at the hands of Spain would be accorded, and thus restore the relations which have so long existed between the two governments.

No. 697.

Admiral Polo de Bernabé to Mr. Fish.

LEGATION OF SPAIN,
Washington, November 23, 1873.

The undersigned, minister plenipotentiary of Spain, begs to inform the Secretary of State of the United States that the testimony of Edward Greenwood and certain other witnesses will be taken at the office of Joseph Gutman, jr., commissioner of the United States circuit court for the southern district of New York, at No. 29 Nassau street, on Tuesday next, the 25th instant, at 11 o'clock, in respect to the history and ownership of the steamer *Virginus*; and the undersigned invites the Government of the United States to be present, by any of its proper officers, at the taking of this testimony, and ask such questions of any of the witnesses as to that Government may seem just and proper.

The undersigned avails, &c.,

JOSE POLO DE BERNABÉ.

No. 698.

Admiral Polo to Mr. Fish.

LEGATION OF SPAIN,
Washington, November 23, 1873.

MY DEAR MR. FISH: I beg to inclose copy of a telegram I have just received. I do not expect to receive any answer to my telegram of yesterday relating to our conference before to-morrow.

Not wishing to trouble you with a new call, I send you these lines.

Yours, &c.,

JOSE POLO DE BERNABÉ.

[Inclosure.]

Secretary of state, Madrid, to Spanish minister at Washington.

[Telegram.]

(Received 4.10 p. m., November 23, 1873.)

Contradict report in reference to hostile manifestations against the American minister. General Sickles is treated with consideration and respect.

Some intemperance of language, but the monarchical press was promptly silenced by the threat of immediate punishment.

The minister of the colonies reports from Havana that the restoration of embargoed property to American citizens is diligently proceeded with.

No. 699.

*Mr. Fish to Admiral Polo de Bernabé.*DEPARTMENT OF STATE,
Washington, November 24, 1873.

Referring to Admiral Polo's note of the 23d instant, respecting the examination to take place at the office of Joseph Gutman, jr., concerning the history and ownership of the *Virginus*, the undersigned has the honor to state to Admiral Polo that the district attorney of the United States for the southern district of New York has been directed to be present at the examination. In giving this order this Government desires to manifest to the representative of Spain its wish to have the facts respecting the vessel fully investigated. But the undersigned feels sure that Admiral Polo will agree with the undersigned that neither party contemplates substituting such proceedings in the place of diplomatic discussion of the grave questions involved in the seizure of that vessel on the high seas while sailing under the flag of the United States, and that the presence of a representative of the Government of the United States at the proposed examination is not to be taken as assenting to any postponement of the questions now under discussion.

The undersigned avails, &c.,

HAMILTON FISH.

No. 700.

Secretary of state, Madrid, to the Spanish minister, Washington.

[Telegram.]

(Received November 24, 1873, at 10.20 a. m.)

Your important telegram received at an advanced hour of the night. To-morrow the cabinet will meet to consider its purport, although no practical solutions are clearly deducible from your interview with Mr. Fish. We had suggested arbitration, and instead of that reparations are first proposed and an arbitration to follow, which would in that event have become useless.

In order to make progress in the matter it would be well to establish fundamental points, and I beg you will again see Mr. Fish and submit the following:

First. Our dispositions being known, would the United States agree to wait for our solution, which would be immediate on receipt of the facts in the case?

Second. Would the President, notwithstanding the foregoing, still insist on submitting the question to Congress?

Third. Could Mr. Fish at once designate the points of offense, in view of treaty stipulations and international law?

We could in this way make good use of time, especially if we could have a clear and precise answer to these three points. I will telegraph you again to-morrow, after the meeting of the cabinet.

No. 701.

MEMORANDUM.

NOVEMBER 24, 1873.

1. The request is indefinite. No time is named within which the facts may be ascertained. Past experience in cases of reclamation for offenses in Cuba will not warrant us in entering into an agreement which practically amounts to an indefinite postponement.

2. It will be impossible for the President to refrain from communicating the facts to Congress. It is his constitutional duty to do so, and the importance and gravity of the case are such as will doubtless lead Congress to desire immediately to have a full knowledge of all the facts known to the President.

3. Generally the points of offense are, the capture on the high seas by the Spanish war-steamer Tornado, during the time of peace, of the regularly-documented United States vessel *Virginus*, under the flag of the United States, on or about the 31st day of October last, and the conveyance of the vessel, with her passengers, officers, and crew, into the port of Santiago de Cuba, within Spanish jurisdiction, and the execution of a large number of such passengers, officers, and crew, and the detention of the remainder and of the vessel.

These acts are regarded as violations of international law and of treaty stipulations.

No. 702.

[Telegram from secretary of state, Madrid, to Spanish minister, Washington. Received 25th November, 1873, at 9.45 a. m.]

The cabinet have carefully considered your telegram. We cannot understand the precipitancy of the United States in this matter. The news is really contradictory; while Mr. Fish maintains that the vessel was an American, our minister of the colonies informs us that she carried false papers, there being contradiction between the description of the vessel and her papers; that the captain declared that she had been fitted out and manned for the exclusive purpose of aiding the insurrection in the island of Cuba.

If this were true, we would have a right to present reclamations and complaints, and we could affirm that the United States do not observe toward the Spanish Republic the reciprocal friendship to which it is entitled.

But in the same way that we suspend reclamations on this point we would wish that the United States would suspend them also on what they consider their complaints and injuries, and we think they might consider as an anticipation of the redress that may be due to their flag our fixed and firm resolve to make reparation by salute and restitution of the vessel and the survivors of the crew of any offense that may be proved against the flag by the act of capture from the proceedings established in order to ascertain whether the vessel had the right or not to carry the American flag, independently of the other questions which, in reference to these facts, the governments of the two republics reserve the treatment of by diplomatic negotiations.

You are authorized to make this declaration, but you will understand, and should endeavor to make Mr. Fish understand, that no satisfaction would be possible if we are not first made sensible of the right with which it is demanded on account of the *Virginus*.

No. 703.

MEMORANDUM.

NOVEMBER 25, 1873.

Admiral Polo having read to Mr. Fish a telegraphic dispatch from his government received this day, Mr. Fish replied that—

The United States, in their own interests as well as in the interest of all maritime powers, cannot admit the right of any other power to capture on the high seas in time of peace a documented vessel bearing their flag. The flag which they give to a vessel must be its protection on the high seas against all aggression from whatever quarter, and they reserve to themselves the right to inquire whether the protection of that flag has been forfeited.

They assert the right not only in their own interest, but in the interest of all maritime and commercial powers, Spain herself included, although now it be asserted apparently against Spain.

On this ground they reserve to themselves the right to inquire into the regularity of the papers of the *Virginus*, and they are prepared to make this inquiry, on the execution indicated in the telegraphic dispatch from his government, just now read by Admiral Polo, of the reparation to the indignity committed to their flag. And should Spain have complaints or reclamations to make against the United States in consequence of the acts of the *Virginus*, when the injury to the honor of the flag of the United States is atoned for, they will be received with every purpose to do justice to Spain and to prove that the United States are ready at all times to do justice, to fulfill their duties under treaties and international law, and to observe toward the Spanish Republic a reciprocal and cordial friendship.

The Spanish cabinet cannot fail to see that the United States cannot demand less or could undertake to do more.

No nation has ever been more ready than Spain, or more precipitate, to assert its dignity, or to demand redress to its wounded honor. She cannot justly complain of precipitancy in the same direction in the present case on the part of the United States.

With regard to the *Virginus*, the identity of the vessel captured cannot be questioned. It is known to be the same that received a United States register, issued at New York in September, 1870, a certified copy of which is now in Mr. Fish's possession, and is, in fact, on the table before him and Admiral Polo.

If her captain made the declarations which he is alleged to have made, they cannot enter into the grave question of justification of an indignity to the flag of a sovereign nation. If they were made, they were made subsequent to the indignity, and cannot, therefore, justify it.

The alleged discrepancy between the description of the vessel and her papers is technical. It may be that the vessel may have sustained damage requiring repairs, which may have involved some change, as is suggested, in her description; but it is the same vessel, and she has not been within the jurisdiction of the United States since a date immediately after that of her register, and, therefore, could not have such changes noted on that register.

Her papers, therefore, must continue to give her a national character, and, with her flag, must be her protection.

No. 704.

MEMORANDUM.

NOVEMBER 27, 1873.

Admiral Polo called upon Mr. Fish, when the latter read to him a telegraphic dispatch, dated last evening, received this morning, from General Sickles, some words of which, he stated, are not capable of being intelligibly deciphered, but enough is translated to disclose the general purport of the dispatch. It presents a proposition on the part of the Spanish government which Mr. Fish says that the United States cannot accept.

Mr. Fish makes this statement and communication to Admiral Polo, inasmuch as it appears from General Sickles's dispatch, now received, that he has requested his passports, and may have left Madrid.

He proceeds to say that it cannot be and it is not questioned that the *Virginus* was regularly documented with American papers when she sailed from the United States in October, 1870, and that she was thus entitled to carry the flag of the United States; that the official report of the commander of the *Tornado*, published in Havana papers of the 15th instant, states that the *Virginus* bore the American flag when she was captured on the high seas by a Spanish vessel, and that the American flag was hauled down and the Spanish flag was hoisted by an officer of the Spanish navy.

He said that the United States deny the right of any other power to visit, molest, or detain on the high seas, in time of peace, any American vessel; that the exemption of the vessels of every power from visit or molestation in time of peace, and on waters common to all nations, is claimed and observed by all the great maritime powers, and is recognized by all the principal writers on international law.

That the propositions of Spain in the note communicated by General Sickles in his dispatch cannot be entertained, in that the first proposition practically asks the United States to consent that Spain shall hold and detain the vessel while she is seeking evidence to justify an act in derogation of the sovereignty and jurisdiction of the United States.

Admiral Polo then stated that he had received a strictly confidential and personal communication, requesting to be informed if it be possible to make an arrangement whereby, if the vessel and men be given up, Mr. Fish would engage that inquiry be instituted, and, if the result required, that punishment should be inflicted on those who had violated any laws of the United States, reserving, until further information, the salute to the flag.

After a short interval and absence, Mr. Fish, having consulted with the President, replied that if Spain should make this proposal, and should forthwith surrender the vessel and the survivors of her passengers and crew, the proposal would be accepted, and that the salute to the flag of the United States might be postponed until the 25th day of December next, to take place on that day; and that if before that date Spain should prove to the satisfaction of the Government of the United States that the *Virginus* was not entitled to carry the flag of the United States, and was carrying it at the time of her capture without right and improperly, the salute will be spontaneously dispensed with, as in such case not being necessarily requirable, but the United States will expect in such case a disclaimer of intent of indignity to its flag in the act which was committed.

Furthermore, if on or before the 25th of December it shall be made to appear to the satisfaction of the United States that the *Virginus* did

not rightfully carry the American flag, and was not entitled to American papers, the United States will institute inquiry, and adopt legal proceedings against the vessel, if it be found that she has violated any law of the United States, and against any of the persons who may appear to have been guilty of illegal acts in connection therewith; it being understood that Spain will proceed, according to the second proposition in the note to General Sickles, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts, and inflict punishment on those who may have offended; other reciprocal complaints to be the subject of consideration and arrangement between the two governments, and, in case of no agreement, to be the subject of arbitration if the constitutional assent of the Senate of the United States shall be given thereto.

No. 705.

[Telegram from secretary of state, Madrid, to Spanish minister, Washington. Received November 28, 1873, 9.15 a. m.]

Negotiations renewed in Madrid. Confer again with Mr. Fish on the basis of the last official note, [official telegram ?] and renew to him the assurances of the good faith and rectitude of our proposition; assuring him likewise that our agreement, whatever it may be, shall be beyond all doubt carried out in Cuba.

No. 706.

[Telegram from secretary of state, Madrid, to Spanish minister, Washington. Received 28th November, 1873—6.30 p. m.]

We can accept the restitution according the terms of your telegram. Inform Mr. Fish at once, and express the satisfaction with which I see happily terminated the negotiations between two nations who have been at peace during a century under different forms of government, and could not forget that they now happily live under the same institutions.

No. 707.

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

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

Spain, on her part, stipulates to restore forthwith the vessel referred to, and the survivors of her passengers and crew, and on the 25th day of December next to salute the flag of the United States. If, however, before that date Spain should prove to the satisfaction of the Government of the United States that the *Virginus* was not entitled to carry

the flag of the United States, and was carrying it at the time of her capture without right and improperly, the salute will be spontaneously dispensed with, as in such case not being necessarily requirable; but the United States will expect, in such case, a disclaimer of intent of indignity to its flag in the act which was committed.

Furthermore, if on or before the 25th of December, 1873, it shall be made to appear to the satisfaction of the United States that the *Virginius* did not rightfully carry the American flag, and was not entitled to American papers, the United States will institute inquiry, and adopt legal proceedings against the vessel, if it be found that she has violated any law of the United States, and against any of the persons who may appear to have been guilty of illegal acts in connection therewith; it being understood that Spain will proceed, according to the second proposition made to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts and inflict punishment on those who may have offended; other reciprocal reclamations to be the subject of consideration and arrangement between the two governments, and in case of no agreement, to be the subject of arbitration if the constitutional assent of the Senate of the United States be given thereto.

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

HAMILTON FISH.

JOSÉ POLO DE BERNABÉ.

No. 708.

Admiral Polo de Bernabé to Mr. Fish.

LEGATION OF SPAIN,
Washington, December 1, 1873.

The undersigned, minister plenipotentiary of Spain, has the honor to address himself to the honorable Secretary of State to tell him he has not as yet received certain instructions from his government at Madrid to arrange with the honorable Secretary of State the details for the fulfillment of the agreement made for the surrender of the steamer *Virginius* and surviving passengers, &c. The undersigned expects every moment said instructions from his government, and to account for the delay he assigns it to the intervening of a Sunday, on which day there is no meeting of council.

Besides, the undersigned received this afternoon a telegram with such confusion in the cipher that he was obliged to ask for repetition.

The undersigned begs the honorable Secretary of State to extend the time agreed only till the arrival of a telegraphic communication he expects every moment from his government, and gives the honorable Secretary of State a complete assurance that there will not be any delay that can be possibly avoided.

The undersigned avails, &c.,

JOSÉ POLO DE BERNABÉ.

No. 709.

*Mr. Fish to Admiral Polo de Bernabé.*DEPARTMENT OF STATE,
Washington, December 2, 1873.

The undersigned has the honor to acknowledge the receipt of the note of Admiral Polo de Bernabé, envoy extraordinary and minister plenipotentiary of the republic of Spain, of the 1st instant, informing the undersigned that he has not yet received certain instructions from his government at Madrid to arrange the details for the fulfillment of the agreement made for the surrender of the *Virginus*, her surviving passengers and crew, &c., and assigning reasons for the delay on the part of his government in carrying out its engagements in that respect, has been unavoidable and will undoubtedly be brief.

The undersigned is instructed by the President to say that the delay appears, from Admiral Polo's statements, to have been unavoidable; but the sufficient reasons which have caused it will doubtless cease in a few hours, and the President will then rely upon the immediate execution of the agreement to complete the arrangement of the details for the surrender forthwith of the vessel and of the survivors of her passengers and crew, and for the salute to the flag of the United States.

Accept sir, &c.,

HAMILTON FISH.

No. 710.

*Mr. Fish to Admiral Polo de Bernabé.*DEPARTMENT OF STATE,
Washington, December 4, 1873.

ADMIRAL: Referring to my note of the 2d instant to you, respecting delay in executing the engagements on the part of your government, undertaken in the conference protocolized by us on the 29th ultimo, I have now to say that I have received from General Sickles a cable-dispatch, stating that President Castelar has informed him that powers have been sent to you to agree upon the place, day, and hour of the delivery of the *Virginus*, &c., to the United States. I have, therefore, the honor to state that I am prepared to forthwith execute the agreement respecting the same on the part of the United States, which, by its terms, should have been executed on the 1st instant, but which has been extended until now at the request of Spain.

May I beg you to name an hour to-day when you will be prepared to meet me for that purpose?

I have the honor, &c.,

HAMILTON FISH.

No. 711.

*Admiral Polo de Bernabé to Mr. Fish.*LEGATION OF SPAIN,
Washington, December 4, 1873.

The undersigned, minister plenipotentiary of Spain, has had the honor to receive the note which the honorable Secretary of State of the United

States was pleased to address to him under date of to-day, requesting him to appoint a certain hour of this very day for the purpose of discussing the conditions of time and place for the surrender of the *Virginus* to the United States, &c., &c., in virtue of the powers which have been conferred upon the undersigned for this purpose, according to information received by telegraph from the minister of the United States at Madrid.

The undersigned has, indeed, been authorized by his government to treat concerning the settlement of the points above referred to, but since he is at the same time instructed (as could not have been done otherwise) to proceed in this matter in conjunction with the superior authority of the island of Cuba, the undersigned has referred the matter to his government, and as soon as he shall have received a reply he will place himself at the disposal of the honorable Secretary of State for the purpose in question.

The undersigned avails, &c.,

JOSÉ POLO DE BERNABÉ.

No. 712.

Agreement between Hamilton Fish, Secretary of State, and Admiral Polo de Bernabé, envoy extraordinary and minister plenipotentiary of Spain.

On this 8th day of December, 1873, Hamilton Fish, Secretary of State of the United States, and Admiral Polo de Bernabé, the envoy extraordinary and minister plenipotentiary of Spain, met for the purpose of arranging and determining the time, manner, and place for the surrender of the *Virginus*, and the survivors of those who were on board of her at the time of her capture; and also the time, manner, and place for the salute to the flag of the United States, if there should be occasion for such salute—in accordance with the stipulation in the protocol signed by them on the 29th day of November last—the time within which such arrangement was to have been made having been extended at the request of the Spanish government.

It is arranged and agreed as follows:

I. That the *Virginus* shall be surrendered and restored by a Spanish vessel of war to a vessel of war of the United States in the harbor of Bahia Honda, on the 16th day of December instant, between the hours of eight in the morning and four in the afternoon, the *Virginus* to have the flag of the United States flying at her main-peak or flag-staff at the time of the surrender; but the fact of the vessel being restored with the flag flying shall not be taken as an admission by either party of the right of the vessel to carry the flag at the time of the capture; nor shall it prejudice the right reserved to Spain to prove, on or before the 25th of December instant, that the vessel was not entitled to carry that flag, and was carrying it at the time of her capture without right and improperly; nor the presentation of the reciprocal reclamations as provided in the said protocol. Should any accident prevent the arrival of the United States vessel in the port of Bahia Honda on the day above named, the surrender and restoration of the *Virginus* shall take place in the same port as soon as may be after the arrival there of the United States vessel.

II. That the survivors of those who were on board of the *Virginus* at the time of her capture shall be surrendered to and safely escorted

on board of a vessel of war of the United States in the harbor of Santiago de Cuba within forty-eight hours after the notification to the authorities of the place of the arrival there of such vessel and that such vessel is ready and prepared to receive such survivors. The said survivors are to be surrendered as above between the hours of eight in the morning and four in the afternoon.

III. That on the 25th day of December current a vessel or vessels of war of the United States will be in the harbor of Santiago de Cuba, and that at the hour of 12 meridian the United States flag is to be raised on a Spanish fort or battery, and a salute of twenty-one guns to be fired. This being done, the United States vessel, or, if there be more than one, one of them, will raise the Spanish flag, and return the salute, gun for gun. But if the commanding officer of the United States vessel in the harbor of Santiago de Cuba shall, on or before that date, have received notice that the conditions have been reached on which, according to the protocol between the undersigned of the 29th of November last, the salute to the flag of the United States is to be spontaneously dispensed with, he will notify the authorities of the place of that fact, and the ceremony of the salute to the flag in such case will not take place.

HAMILTON FISH.
 JOSÉ POLO DE BERNABÉ.

No. 713.

Admiral Polo de Bernabé to Mr. Fish.

LEGATION OF SPAIN,
 Washington, December 10, 1873.

As a result of the protocol signed at Washington on the 29th of November last, relative to the case of the *Virginus*, the undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to transmit herewith to the Secretary of State of the United States various authenticated documents, which prove, in the opinion of the undersigned, that the steamer *Virginus* had no right, at the time of her capture, to use the flag of the United States.

The documents referred to are a certified copy of the papers relative to the said steamer, in the archives of the New York custom-house, which were used for the purpose of clearing the vessel at that port on the 4th of October, 1870; affidavits of Shepperd, Bowen, and Smith, persons who have commanded the *Virginus* since her departure from New York, and during a part of her illicit career in the Caribbean Sea and its neighborhood; the affidavit of Greenwood, engineer on board during a part of the same time; and those of Murphy, McCann, Gallagher, Rawlings, and Furlong, seamen or firemen, together with the affidavit of Varona, the so-called secretary or chief of staff of General Quesada, so-called, who appears to have been the person who really controlled the vessel from the date of her departure from the United States in 1870, and during most, if not all, the time which elapsed between that date and her capture.

All this proof has been taken after a notice to the Department of State, in which the undersigned pointed out the propriety of the attendance of a person appointed for the purpose to examine the witnesses,

as he might think fit, on the part of the United States, which was done accordingly.

Together with the depositions taken in the city of New York, the undersigned also transmits to the honorable Secretary of State the original and a translation of proof taken at Santiago de Cuba, on the 26th of October, 1871, before the consuls of the United States and of Venezuela, and given by two persons who were on board the *Virginus* at the time that vessel landed in Cuba a military expedition commanded by Raphael Quesada, about the 21st of July, 1871.

From an examination of the aforesaid documents the following facts appear to be sufficiently proved:

Toward the close of 1869, or at the beginning of 1870, the leader of the Cuban insurrection created a mission, called "foreign," in the United States, the principal members of which were Manuel Quesada, in the quality of president, and Adolphus de Varona, secretary. Prior to the time adverted to the said leader had sent one Morales Lemus in the character of a diplomatic representative to the United States, in anticipation of the moment when the Federal Government might believe that the belligerent rights of the insurrection should be acknowledged.

The object and the character of the mission of Quesada were not diplomatic, but aimed at the creation in the United States of a financial, naval, and military center, whence material aid might be dispatched to the insurgents. He was also intrusted with the purchase of arms and munitions of war, with authority to enlist men to act in hostility to a country with which the United States were in relations of the most perfect peace, friendship, and good faith. Quesada arrived at New York in February or March, 1870, and held interviews with different Cuban associations, clubs, or meetings, organized in the United States to aid the insurrection in Cuba by means of pecuniary and other assistance.

Even in advance of the departure of Manuel Quesada from Cuba, two military expeditions from New York had landed in that island, one in the steamer *Perit*, under the command of the so-called General Jordan, and the other in the *Salvador*, with Raphael Quesada, brother of Manuel, and both composed of a large number of men, provided with arms and munitions.

In discharge of the functions of his mission adverted to, General Jordan, a citizen of the United States and one of the persons comprising the expedition, was selected by Quesada to organize the military forces of the insurgents, and at the proper time Jordan returned to the United States after having been relieved by Agramonte.

One of the results of the mission of Quesada and of the other Cuban associations in the United States was the collection of a large sum of money, by means of individual subscriptions and by the sale, in this country, of the so-called Cuban bonds, which sum was placed in the hands of one Castillo, appointed treasurer of the said funds, whose residence was at New York. In the sequel a board of directors was appointed, which controlled the expenditure of the money, the purchase of arms and vessels, and the enlistment of men.

Among the members of the club were H. Raymond, Martinez, José Maria Mora, Plutarch Gonzalez, and others, who then were and now are residents of the city of New York. With the money collected as has been stated, and controlled by the Cuban agents of the insurrection, the steamers *Florida* and *Virginus* were purchased. The latter vessel, built in England, became the property of the United States by capture as a blockade-runner while attempting to enter the southern

ports of this republic, and again upon a subsequent occasion in the settlement of a debt. Her nominal purchaser, who on the 27th of August, 1870, took from the United States Treasury Department a *pro forma* proprietary title, was a person named John F. Patterson, then and now a resident of the city of New York. It does not appear to be clearly shown by the depositions and other accompanying documents whether Patterson bought the steamer as agent of said insurgent Cubans, or whether he did it in his own name, afterward transferring it to the latter.

The undersigned, however, has reason to believe that when a thorough examination of all the circumstances shall have been made, it will appear that he did not make the purchase, except in the character of agent, as above expressed. At the time of the sale, the steamer was at the Washington navy-yard, and one J. K. Roberts, of New York, in September, 1870, employed Captain Shepperd to navigate her from that navy-yard to the port of New York; which service was performed in the course of that month, Roberts having stated to Shepperd that he had bought the vessel of the United States Government on account of certain Cubans, among whom he mentioned José Maria Mora, of the city of New York, and the so-called General Quesada; that the Cubans had furnished the money for the purchase, and afterward for the repairs and finishing-work on board at the city of New York. And about two weeks after her arrival at that port Roberts stated to Shepperd that the steamer was the property of Mora, Quesada, and other insurgent Cubans, and that she was going to be employed in landing expeditions in Cuba and in other enterprises in the interest of the Cuban insurgents; and Roberts asked Shepperd if, under such circumstances, Shepperd was disposed to take command of the steamer; and when Shepperd wished to inform himself further touching the true character of the business, Roberts answered that he should be presented to Mora and Quesada, which introduction took place the same evening at Mora's house, in the city of New York; Quesada, Patterson, Adolf Varona, and various other Cubans being present. At the aforesaid interview, Mora and Quesada declared frankly to Captain Shepperd that they were owners of the vessel, and, for the purpose of persuading him to take command of the *Virginus*, Mora stated to him that there would be various opportunities for making money offered to him, by means of the capture and confiscation of Spanish vessels and their cargoes on the high seas. Varona, Quesada's secretary, testified that the sum paid for the vessel proceeded from the insurrectionary funds, and amounted to about \$15,000, and that both the fact of the purchase, as well as that of the payment, were well known at the club of the Foreign Mission, as also the fact that the cargo of the schooner *Billy Butts*, which vessel, by a preconcerted arrangement, met the *Virginus* near the island of Curaçoa, in November, 1870, was bought with funds of the same origin. If, indeed, evidence of these allegations does not appear to be fully established in the depositions to which reference has just been made, the undersigned relies for the conviction of the Secretary of State, or any legislative or judicial tribunal, or any committee of Congress empowered to compel the attendance of witnesses, and upon their answers to proper questions, which would easily show that Patterson, the supposed owner of the *Virginus*, received \$15,000 for her in United States currency, a large sum in so-called Cuban bonds, and a further compensation for his agency in obtaining a register and a clearance in his name from the New York custom-house, and for the purpose of appearing in the false and fraudulent character of her true

owner during her piratical enterprises against Spain. The principal persons who were concerned in the purchase of the steamer, such as Quesada, Gonzalez, Martinez, and various others, are now in the city of New York, within the jurisdiction of this Government, and within easy reach of the exercise of its sovereignty; while, on the other hand, neither the undersigned nor the government which he represents enjoys, in this country, any power to compel true answers to be given in investigations for the purpose of exposing the true history of the purchase of the steamer and her clearance from the port of New York.

The *Virginius* left that port, pursuant to what is said above, about the 4th of October, 1870. The annexed custom-house papers declare that she carried no cargo, and, after the most particular inquiries, the undersigned has found no indication that any insurance was effected on the vessel, conformably to the usual practice for merchant-vessels or honest transports. General Quesada, Varona, Eloy, Camacho, Domingo Mora, (son of José Maria Mora, to whom reference has already been made,) and various other Cubans who took passage on board of her, did not embark at the wharf, as is customary for honest passengers, but overhauled her at sea in the lighter *Virginia Seymour*.

During the voyage to Curaçoa, having descried a merchant-vessel, and believing it to be Spanish, Quesada proposed to Captain Shepperd, through Alfaro, that the said vessel should be captured, and the scheme was only abandoned when it was noticed that the vessel was sailing under the English flag. In the vicinity of the island of Curaçoa, the cargo of arms and munitions of war from New York in the schooner *Billy Butts* was transferred to the *Virginius* under the direction of Quesada, and the steamer proceeded to Puerto Cabello; meanwhile Varona went in the schooner toward the island of Cuba, and sought, as he declares, to put himself in communication with Cespedes, for the purpose of obtaining for Quesada an appointment making him sole representative of the material interests of the insurrection in the United States.

During the whole of the passage from New York to Puerto Cabello, the captain of the *Virginius* recognized Quesada as owner of the steamer, and as a superior whose orders he must obey.

Varona testifies that during the voyage, in the name of General Quesada, he informed Shepperd that the steamer really belonged to them and not to Patterson or to any one else, giving him by this to understand that she belonged to the Cuban club; and the witness added that his personal expenses were to be paid from the same funds which had been used to buy the steamer.

Captain Shepperd left the *Virginius* at Puerto Cabello, and about the middle of November, 1870, returned to the city of New York, where he had interviews with Patterson and with Mora, the former having stated to him that he ought to have brought the vessel to New York, taking advantage of the title which he had in his possession. Shepperd imparted this indication, in a measure, to Mora, who denied that Patterson was the real owner of the vessel, in proof of which he showed him receipts for the purchase-money and for the finishing and repairing done at the port of New York before the voyage, given in favor of Mora.

Patterson subsequently expressed to Shepperd his regret that he had permitted his name to be used in connection with the ownership of the vessel, and Roberts also told Shepperd that the vessel would have to sail as the property of an American, because the Cubans could not own a vessel of that nationality.

Captain Shepperd declares that on various occasions he had conver-

sations with the consuls of the United States at Curaçoa, Lagnayra, and Puerto Cabello, in relation to the ownership and destination of the *Virginus*, and that the consul at Puerto Cabello requested him to make a statement in regard to a rumor which had reached his ears, to the effect that the steamer was going to serve in a revolution then in progress in Venezuela; Shepperd did so in a letter dated December 9, 1870, in which he proposed to state, as he declares, under oath, that such was not, to his certain knowledge, the object of the persons interested in the vessel, nor would he have to render any such service while in command.

The entire testimony of Captain Shepperd, as regards his conversations with these different consuls of the United States, leaves the impression that they were not ignorant of the real ownership and the real destination of the vessel, while they wished to see nothing but her papers certified by the collector of customs at New York.

After the arrival of the *Virginus* at Puerto Cabello, a conference was held with the accredited representatives of Guzman Blanco, who was then at the head of one of the contending parties of that state, at a place on the beach not far from the *Virginus*.

To this place Quesada was brought in a boat from the *Virginus*, which carried the insurgent flag of Cuba, and after this the principal part of the cargo of arms and munitions of war was conveyed from the steamer to a fort that was near. Before this took place, Captain Smith having abandoned the steamer, one Marquez, the chief engineer, who had shipped in New York, was made what the witness calls the paper-captain, because he was no seaman, while the real command was held by a Cuban named Eloy Camacho, who likewise shipped at New York, in company with Quesada, from the *Virginia Seymour*. The vessel was at once set to work transporting Venezuelan troops along that coast, in the interest of Guzman Blanco; and afterward the assistant engineer, Greenwood, having gone, by order of Quesada, on board of a Venezuelan vessel-of-war which was in that port, the *Virginus* towed said vessel-of-war out to sea, and assisted in the capture of a flotilla of armed schooners belonging to the party that was contending against Guzman Blanco, and while this capture was in progress the *Virginus* hauled down the American flag and hoisted that of Venezuela in its stead.

The most brilliant exploit performed by the *Virginus* after the aforesaid incident was the landing of a military expedition on the coast of Cuba, the details of which are given in the depositions taken at Santiago de Cuba by the consuls of the United States and of Venezuela.

At a subsequent period of her career, in April, 1872, she is found at Aspinwall, where Captain Bowen, whose testimony forms a part of the accompanying documents, took command, having been commissioned for this purpose by Manuel Quesada and his chief executive officer, Pedro Alfaro, who distinctly stated to him that she was intended to be used in landing military expeditions on the island of Cuba. Captain Bowen remained in command of her for two or three months, and during that time he never knew or recognized any other owners than the Cubans.

When he went on board as captain, the vessel had no American flag, and he bought one himself.

Bowen, in his testimony, clearly expresses the conviction that the consul or consular agent of the United States at Aspinwall was only too well aware of the true character of the vessel and the kind of business in which she was engaged.

While Bowen was in command at Aspinwall, an incident occurred

affecting the ownership of the steamer, and throwing a great deal of light upon the real ownership as well as upon the absence of all direction of or interest in its acts on the part of Patterson. A considerable debt had been incurred for repairs and provisions, and on this account Captain Bowen states that he gave to a business house at Aspinwall and Curaçoa, whose owners were known to be agents of Quesada and the Cubans, a mortgage on the vessel in his own name, as captain. This he did not do, as he states, in the exercise of his discretionary powers as the captain of a merchant-vessel, but he acted solely in obedience to the orders of Quesada. He made no arrangement with Patterson in relation to the matter, nor did he ever inform him of the transaction until his arrival in New York, when he told him of it, altogether casually, in the course of conversation. It is probable that this mortgage would not have been given if Bowen had considered Patterson as the owner, or if Quesada had been only the freighter of the vessel; and the reason why Quesada neither signed nor executed the mortgage as the owner, doubtless was that, had he done so, the American consul and everybody else would have seen that the papers of the vessel, which declared that Patterson was her owner, were incorrect and fraudulent. The mortgage for payment subsequently in part at Puerto Cabello by Quesada and the English consul at that place, who acted as the agent of Mahl Brothers, who were obligated by the mortgage; and for the rest of the sum that was due, a new mortgage was executed, the old one being canceled by the then captain of the steamer, Smith, who, as had been done on the former occasion, acted according to Quesada's instructions, there having been no communication on the subject with Patterson in New York, save in the case of the mortgage signed by Bowen.

Bowen leaves no room for conjecture as regards his own belief concerning the ownership of the *Virginus*; he openly declares his belief that the vessel was owned by Cubans, although sailing under the American flag and calling herself a United States vessel. This individual left the steamer at Puerto Cabello, where Captain Smith took command, having been engaged by Quesada, as his predecessors had been, without having had any communication concerning the vessel, either directly or indirectly, with Patterson.

He gives a detailed account of his departure from that port; of what was said to him by Quesada or Alfaro with regard to converting the vessel into a privateer and capturing Spanish merchant-vessels on their way to Maracaibo. He also states how and when he took Pulgar and his followers on board, and speaks of the habitual use which he made of the Venezuelan flag. He says that he only had one American flag on board, while he had six of the so-called Cuban flags. He states what occurred on board on the anniversary of the rising at Yara, and finally states that he obeyed the directions of Quesada and no one else, and expresses his conviction that the vessel was owned by Cuban insurgents, and that Patterson had no sort of interest in her.

The testimony sent with the present note concludes at the time that Captain Smith gave up the command of the *Virginus*; but from that moment her operations in the landing of a military expedition on the coast of Cuba, and subsequently up to the time of her capture by the *Tornado*, are matters of public notoriety.

By the light afforded by the foregoing statement, based upon the authenticated testimony of persons who have been on board of the *Virginus*, the invalidity of the documents with which the vessel was dispatched in the port of New York is very clearly seen.

The United States, in conformity with their views of what is required

by international interests, have enacted laws and established rules and conditions for identifying and determining the nationality of vessels carrying their flag. These rules and conditions treat, among other things, of the place of building; of the nature and domicile of the owners, officers, and crew, and of the formalities with which the papers are to be issued. The laws of the United States are very strict as regards that which constitutes national character, as is well known both to navigators and to writers who treat of this part of law.

One of these laws provides that "previous to the registry of any vessel or ship, the husband, or acting and managing owner, together with the master thereof, and *one or more sureties*, to the satisfaction of the collector of the district whose duty it is to make such registry, shall become bound to the United States, if such ship or vessel shall be of burden exceeding three hundred tons, in the sum of two thousand dollars, with condition, in each case, that the certificate of such registry shall be solely used for the ship or vessel for which it is granted, and shall not be sold, lent, or otherwise disposed of to any person or persons whomsoever; and that if any foreigner, or any person or persons for the use and benefit of such foreigner, shall purchase, or otherwise become entitled to the whole, or any part or share of or interest in such ship or vessel, the same being within a district of the United States, the said certificate shall, in such case, within seven days after such purchase, change, or transfer of property, be delivered up to the collector of the said district; and that if any such purchase, change, or transfer of property shall happen when such ship or vessel shall be at any foreign port or place, or at sea, then the said master, or person having the charge or command thereof, shall, within eight days after his arrival within any district of the United States, deliver up the said certificate to the collector of such district." (U. S. Stat. at Large, vol. 1, p. 290.)

If the inclosed papers of the *Virginus* be attentively examined, it will be seen that the bond required by the law previous to the registry is only signed by the ostensible owner, Patterson, and by Captain Sheperd, but that the signatures of the sureties required by the law are wanting. The burden of the *Virginus* being more than three hundred tons, the sum which ought to have been pledged according to the law is \$2,000, and it is very easy to see why she could not or would not procure the required sureties; whether a transfer of the *Virginus* was made to the Cuban insurgents previously to the registry, it being agreed that she should be allowed to use said American registry; or, after having obtained her registry, it was agreed to make a transfer to them of the whole or a part of the vessel.

The undersigned will not now stop to examine whether, according to the law of the United States, the want of said sureties did not invalidate the registry of the *Virginus* so far as to deprive her of the protection of the United States flag. He only purposes now to call attention to the fact that the lack of sureties confirms the evidence that the vessel had been transferred, directly or indirectly, through Patterson, to foreigners who never had any intention to bring it back to the United States.

It may be confidently asserted that Patterson did not intend, either in case the Cuban insurgents should acquire the whole or a part of the ownership *before the vessel left New York*, or in case of the transfer being effected *after her departure from the port*, that her captain should return the certificate, as provided by the law, within eight days after his return to the United States, and he therefore took good care to furnish no surety that he would do so.

The undersigned does not see how the Secretary of State of the United States can doubt that it was the intention of Patterson, and the Cuban conspirators who were associated with him, fraudulently to obtain from the collector of customs at New York certain formalities on papers which should be just sufficient to enable them to clear the vessel, and which, in foreign ports, might furnish a plausible pretext to the consuls of the United States to dispatch her. In proof of this it will be observed that no number was designated for the *Virginus*, (as provided by the act of Congress of July 28, 1866,) up to February 21, 1872, and that, when a number was then designated, it was not done in virtue of an application addressed by the owner or captain to a collector of customs, as required by the regulations of the Treasury Department. This circumstance tends to prove, in the judgment of the undersigned, that the true owners of the vessel had no interest in assuring to themselves the protection to their property which is provided by the laws of the United States, in that it is marked with all clearness that if, at any time, a registered vessel ceases to have the number to which she makes reference, said vessel will cease to be recognized as a vessel of the United States.

The undersigned does not propose, on this occasion, to make an examination of the conditions which may be required, and of the elements which may at all times be necessary to establish the nationality of a merchant-vessel of the United States. He cannot do less, however, than to call attention to a declaration of the Supreme Court of the United States, according to which "the object of a register is to make manifest the nationality of a vessel which is engaged in trade with foreign countries, and to furnish her a means of making evident that nationality wherever she may be found."

What effects can be assumed or what respect paid to a register obtained in fraudulent violation of the laws of the United States, or used subsequently with manifest infraction of said laws, when the transfer of the proprietorship of the vessel to a foreigner has been accomplished?

The same eminent tribunal has likewise declared, at a period not more remote than the month of December, eighteen hundred and sixty-eight, that "the vessels of the United States are the creatures of the legislation of Congress," and that "vessels that are not within the terms of the acts of Congress, and have not a right to the benefits and privileges which the same confer, have no more value as respects American vessels than the wood and iron which have served for their construction; their true value, if not their complete and total value, consists in their right to the character of national vessels, and to enjoy the protection of the national flag hoisted at their mast-heads."

On another occasion the presiding judge of the Supreme Court (Chief-Justice Marshall) decreed that "in cases of alienation to a foreigner, the privileges of an American hull are *ipso facto* annulled."

Another case emanating from the most elevated tribunal of this country will be found on page 227 of the 9th volume of Wheaton, in which the judgment pronounced appears so exactly applicable to the case now under discussion, that the undersigned cannot omit to call to it the attention of the Secretary of State.

A vessel called the *Margaret* obtained a register at the port of Baltimore, and subsequently was transferred in Cuba, by edict, to a Spanish subject domiciled in that island, after which she sailed for Baltimore with her American documents.

On the institution of proceedings of confiscation against the vessel, in virtue of section 16 of the act of 1792, relative to registers, the

defense relied on the circumstance that the transfer to a Spanish subject had been effected with the sole object of evading the Spanish customs-laws, and that the real American ownership had not undergone an exchange *bona fide*. The court expressed itself in these terms:

But even supposing that the only object of the transfer was the perpetration of a fraud against the laws of Spain, it was, nevertheless, an act which bound the parties and changed the legal ownership. It was, within the terms of the law, a complete transfer to a foreign subject, by way of trust and confidence, the nature of the confidence requiring that there should be a reconveyance to the American owner when the special ends of the first transfer had been carried fully into effect. We are in nowise disposed to admit that a reconveyance would be decreed in any American court of justice in a transaction of this character with a foreign subject, in a foreign port, in violation of the laws of this country; it is sufficient for us, however, that the transaction is within the very terms of the act of Congress, which does not require a sale in good faith, but an exchange of ownership "by way of trust, confidence, or otherwise." But we are told that the case is not comprised within the intention of the act. What that intention is can only be known by the terms in which the act is drawn; and every part of it evinces the great solicitude of the legislative body to discover and examine every change of ownership, for which purpose the act requires a public declaration of the change and its verification in the vessel's papers, which make apparent at all times the names of the legitimate owners. The manifest intention of these laws is to encourage American navigation [to the exclusion of] foreign ownership, and of securing to American vessels, duly registered, a preference in all our fiscal transactions over every vessel not having strictly a right to that character. The legislature foresaw that it would be impossible for the agents of the government to ascertain the secret intentions of individuals or the object of a transfer of ownership. The question of whether such transfers had been made in good faith, or had merely served to cover an illicit purpose, was a matter which had to be left to the confidence of private persons, and could rarely be verified by competent and disinterested proof. To consent to secret conveyance of ownership to any persons, and especially to foreigners, and to allow vessels at the same time to retain all the benefit of American character, would put at hazard and might frustrate the main object of the act, and give place to all sorts of contrivances to evade the laws and place it out of the power of the Government to expose the fraud. There can be no doubt, therefore, as to what was the true purpose of the legislation, to wit: It was the establishment of clear and simple provisions of law, whereby it would be requisite for every transfer to be made known from time to time as it should occur, and to always give up the American documents when the legal ownership passed to a foreigner, whatever might be the secret conditions accompanying the conveyance. The terms of the section to which reference has been made are clear and positive, and so far from invalidating, they sustain most completely the intention of the act. They cannot, consequently, be interpreted in a more limited sense than that which their evident purport indicates.

It is plain to the undersigned that this authorized exposition of the law of the United States must destroy every effort and pretext on the part of Patterson, or any one else claiming to bear the name of that individual, to show that the register of the *Virginius* was valid and sufficient, or that said vessel had a right to use the American flag or papers at the time of her capture. Of a like character is the pretense that the conveyance to the Cubans did not deprive Patterson of the *legal* ownership, seeing that that conveyance was only made by way of trust or of charter of the steamer, with the view of withdrawing her from the use of the legitimate rights which Spain might have against her.

If, laying aside the municipal law, the honorable Secretary of State should allege that, in virtue of what was agreed on in the protocol of the 29th of November, 1873, Spain had contracted the duty of proving in a satisfactory manner to the Government of the United States that the *Virginius*, at the time of her capture, unduly carried the flag of the United States, agreeably to international law, the undersigned cannot but insist that, according to the accredited text of that law, as Spain was authorized, in view of the circumstances, to inquire into the national character of the *Virginius*, and the documents and annexed evidence demonstrate that the American nationality which she invoked was at

the time of her capture by the Tornado, and according to the rules of international law, spurious and untenable. In fact, the principles laid down by Phillimore, in his Treatise on International Law, demonstrate that Spain had, and has, the capacity of proving, if this can be done, that the flag and the documents of the *Virginus* were "false credentials, used for the purpose of disguising the true character of the vessel;" "and it is not a less important part," adds the same author, "of the ordinary labors of a prize-court to drag off this mask, and, the disguise being removed, to make appear in its true character an enemy's vessel."

Dana, the illustrious commentator on the Elements of International Law by Wheaton, puts forward the same ideas. He says:

Whenever a nation has the quality of assuring itself of the nationality of a merchant-vessel, whether she be hostile or whether she be pacific, the right that it has to proceed thus cannot be limited by the flag or by the papers which are used. In such a situation a country is at liberty to inquire what there is behind the nationality indicated by the flag and the papers, and to make inquiry as to the true nationality, which depends upon the domicile of the owner and upon other circumstances. In a case of this kind, the vessel may be considered as condemned by the fact of her having used a flag and papers to which she was not entitled, if the country making the inquiry has an interest in proving such illegality. This is usually done in time of war, and may be done in time of peace. The practice is equivalent to the application of a rule of conclusive presumption, and the decision as to whether it is to be adopted or not is regulated by national expediency. The vessel cannot ask for the application of the rule for its benefit: so that if it should appear that the papers and flag of any particular nation had been used with the consent of that nation, the vessel having been thereby invested, in a given case, with a false national character, such consent does not stand in the way of the right of the country making the inquiry, as regards the relation existing between the said nation and the owner of the vessel, to cast aside all consideration of the flag and papers, and to show the true nationality of the vessel. In case of interference on the part of the nation that gave the consent, the question would become a political one between the two nations.

In the opinion of the undersigned, whatever may be the turn taken in the discussion relative to the nationality of the *Virginus*, adjusted to the acknowledged precepts of international law, it would have to terminate in the consideration of what class are the vessels which the United States have permitted to use their flag and to shelter themselves under the immunities of its colors. All nations ought to know and to respect said laws, and the undersigned does not deny the prerogative which every sovereign state possesses to determine for itself the conditions of the nationality of its merchant vessels.

The undersigned has had occasion to call to mind the very significant circumstance of the owners of the *Virginus* not having taken out a policy of maritime insurance for the voyage which she undertook from New York on the 4th of October, 1870. Now, in case the United States had recognized or affirmed a state of belligerency between Spain and her insurrectionary citizens in Cuba, and the *Virginus* had been insured at New York against capture, arrest, detention, or impediment on the seas by any king, prince, or power, and that Patterson had guaranteed the vessel as a national vessel of the United States, would a tribunal, which was called to judge in conformity to the law of nations, have decided that the insurers had incurred the obligation of making good the losses experienced in consequence of her capture by the Tornado? And if the guarantee of Patterson had expressed that the vessel was American, and proof been given of it, if necessary, that he was in the city of New York, would a judicial tribunal, which in presence of the declarations on which this writing was founded, have declared that the vessel had truly the character which had been attributed to her, and that consequently the insurers would be obliged to pay?

The undersigned has the honor to show that, in virtue of the practice of all maritime nations, a guarantee of American nationality implies, first, that the vessel belongs in fact and in her totality to citizens of the United States at the time when the risk began; secondly, that said ownership had not passed into the hands of a foreigner, not even by way of trust; thirdly, that the vessel would have to go always provided with documents and other requisites which accredit in good faith the necessary elements of her true nationality.

In the case in question, the most positive proof exists that the Virginus has not been in the possession or at the disposal of Patterson as her sole and exclusive owner, even supposing that she ever was so, since October 4, 1870; but that, on the contrary, the direction of all her movements during the entire period which has elapsed has been in the hands of insurgent citizens of Spain, represented by Quesada and Alfaro.

It cannot be doubted that such a state of things, even were there no other circumstances, imposes upon Patterson the obligation to explain how and in what manner he transferred the control of the vessel to others, and by what legal documents, if any, and how it is, that a citizen of the United States has permitted the Virginus to be put to a use which, if he permitted it knowing what he did, renders him subject, according to the laws of his country, to fine and imprisonment.

The undersigned hopes that he has fully proved, by the foregoing considerations, and to the satisfaction of the honorable Secretary of State, that, according to the laws of the United States, in which are clearly and definitely laid down the conditions which must define the legal character of the nationality of their vessels, not only do there not exist such conditions in the case of the steamer Virginus, but that, at the time of her capture by the Spanish war-steamer Tornado, she was fraudulently using the papers and flag of the country whose protection she claims.

The undersigned avails, &c.,

JOSÉ POLO DE BERNABÉ.

[Inclosure 1.]

Bill of sale of registered vessel.

To all to whom these presents shall come, greeting:

Know ye that I, Everett C. Banfield, Solicitor of the Treasury of the United States, in pursuance of the authority conferred upon me by virtue of an act of Congress entitled "An act to provide for the appointment of a Solicitor of the Treasury," approved May 29, 1830, and "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," acting for and in behalf of the United States, the owner of the steamer or vessel called the Virgin, of New Orleans, of the burthen of four hundred forty-one $\frac{1}{10}$ tons, or thereabouts, for and in consideration of the sum of nine thousand eight hundred dollars, lawful money of the United States of America, to the United States in hand paid, before the sealing and delivery of these presents, by John F. Patterson, of New York, the receipt whereof I do hereby acknowledge and am therewith fully satisfied, contented, and paid, have bargained and sold, and by these presents do bargain and sell, unto the said John F. Patterson, his executors, administrators, and assigns, the whole of the said steamer or vessel, together with the masts, bowsprit, sails, boats, anchors, cables, and all other necessaries thereunto belonging: the certificate of registry of which said steamer or vessel is as follows, viz:

Register No. 106, (one hundred and six,) permanent.

An act of Congress of the United States.

In pursuance of an act of the Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792, and of "An act to regulate the admeasurement of tonnage of ships and vessels of the United States," approved May 6, 1864, Miles T. Steele, of New Orleans, in the State of Louisiana, having taken or subscribed the oath required by the said acts, and having sworn that he is a citizen of the United States, and sole and only owner of the steamer or vessel called the *Virgin*, of New Orleans, whereof Miles T. Steele is at present master, and is a citizen of the United States, as he hath sworn, and that the said steamer or vessel was formerly a blockade-runner, and sold by Bureau of Refugees, Freedmen and Abandoned Lands, at the port of Mobile, February 14, 1866, as per register No. 18, issued and dated at Mobile, March 12, 1866, now surrendered properly and district changed; and said register, No. 18, having certified that the said vessel has one deck and one mast, and that her length is 216 $\frac{9}{10}$ feet; her breadth, 24 $\frac{4}{10}$ feet; her depth 10 $\frac{7}{10}$ feet; her height, 70 feet; that she measures four hundred forty-one $\frac{4}{10}$ (441 $\frac{4}{10}$) tons, viz: capacity under tonnage-deck, 375 $\frac{3}{10}$ tons; capacity between decks above tonnage-deck, 70 $\frac{8}{10}$ tons; capacity of inclosures on the upper deck, viz: 66 $\frac{7}{10}$ tons; total tonnage, 441 $\frac{4}{10}$ tons; that she is a steamer, has a round stern and a scrawl-head. And the said Miles T. Steele having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said acts, the said steamer has been duly registered at the port of New Orleans. Given under our hand and seal at the port of New Orleans, this 23d day of June, in the year one thousand eight hundred and sixty-six.

And the United States having acquired title to said vessel, registered as aforesaid, in the collection of a debt due the United States by bill of sale from the said Miles T. Steele, dated May 14, 1867, and recorded in the custom-house at New Orleans, in book A, page 20, the said register has not been surrendered or renewed.

To have and to hold the said steamer or vessel and appurtenances thereunto belonging unto him, the said John F. Patterson, his executors, administrators, and assigns, to the sole and only proper use, benefit, and behoof of him, the said John F. Patterson, his executors, administrators, and assigns forever. And I, the said E. C. Banfield, Solicitor of the Treasury, as aforesaid, have, and by these presents do promise, covenant, and agree, for and in behalf of the United States, to and with the said John F. Patterson, his heirs, executors, administrators, and assigns, to warrant and defend the said steamer or vessel, and all the other before-mentioned appurtenances, against all and every person and persons whomsoever claiming by, from, or under the United States.

In testimony whereof, the said Everett C. Banfield, Solicitor of the Treasury, has hereunto set his hand and seal this 27th day of August, in the year of our Lord one thousand eight hundred and seventy.

[SOLICITOR'S SEAL.]

E. C. BANFIELD,
Solicitor of the Treasury.

Signed, sealed, and delivered in presence of—

J. H. ROBINSON.

H. C. WHITLEY.

[United States internal-revenue stamp here.]

DISTRICT OF COLUMBIA, ss:

Personally appeared before me, a notary public in and for the District aforesaid, Everett C. Banfield, Solicitor of the Treasury of the United States, and acknowledged the within bill of sale to be his free act and deed.

In testimony whereof I have hereunto set my hand and seal of office the seventh day of September, in the year one thousand eight hundred and seventy.

[SEAL.]

N. CALLAN,
*Notary Public.*Received and recorded September 26, 1870, 2 $\frac{1}{2}$ o'clock p. m.T. W. J. SIZER
*R. Clerk.*DISTRICT AND PORT OF NEW YORK,
Collector's Office.

I hereby certify the within to be true copy of the original on record in this office. Given under my hand and seal this 20th day of November, 1873.

[Seal of the collector of the port of New York.]

A. PUFFER,
*D. Collector.*PORT OF ———, District of ———, ss:
No. 14.—25851.

I, John F. Patterson, of the city, county, and State of New York, do solemnly swear, according to the best of my knowledge and belief, that the ship or vessel called the

Virginus, of New York, is of the burthen of 441 $\frac{3}{10}$ tons, and was formerly the steamer Virgin, and sold by order and on account of United States Government, as per copy of register No. 106, issued at the port of New Orleans 23d June, 1866. Now canceled. Property changed.

That my present place of abode or residence is New York, and that I am a citizen of the United States, and the true and only owner of the said ship or vessel, and there is no subject or citizen of any foreign prince or state directly or indirectly, by way of trust, confidence, or otherwise, interested therein, or in the profits or issues thereof, and that F. E. Shepperd is the present master or commander of the said ship or vessel.

JOHN F. PATTERSON.

Sworn to this 26th day of September, 1870.

W. A. MORRIS,
Deputy Collector.

I, F. E. Shepperd, the present master of the above-mentioned vessel, do solemnly swear that I am a citizen of the United States, having been born in Forsyth County, State of North Carolina.

F. E. SHEPPERD.

Sworn to this 4th day of October, 1870.

W. A. MORRIS,
Deputy Collector.

Know all men by these presents that we, John F. Patterson, F. E. Shepperd, are held and stand firmly bound unto the United States of America in the full and just sum of two thousand dollars, to which payment, well and truly to be made, we bind ourselves, our heirs, our executors, and administrators, jointly and severally, by these presents. Witness our hands and seals this 26th of September, one thousand eight hundred and seventy.

The condition of the foregoing obligation is such, that, whereas, Thomas Murphy, collector of the district of ———, has issued and granted a certificate of registry in the manner prescribed by the act entitled "An act concerning the registering and recording of ships and vessels," for the steamship called the Virginus, of New York, burthen 441 $\frac{3}{10}$ tons, whereof ——— is at present master, which certificate is dated this day, and numbered 14:

Now, therefore, if the said certificate of registry shall be used for the said vessel for which it has been granted, and shall not be sold, lent, or otherwise disposed of, to any person or persons whomsoever, and in case the said vessel shall be lost, or taken by an enemy, burnt or broken up, or shall be otherwise prevented from returning to the port to which she belongs, if the said certificate (if preserved) shall, within eight days after the arrival of the master or person having charge or command of the said vessel within any district of the United States, be delivered up to the collector of such district; or if any foreigner, or any person or persons for the use and benefit of such foreigner, shall purchase or otherwise become entitled to the whole or any part or share of or interest in the said vessel, the same being within a district of the United States, if the said certificate shall, with seven days after such purchase, change, or transfer of property, be delivered up to the collector of said district, or if such purchase, change, or transfer of property shall happen when the said vessel shall be in any foreign port or place, or at sea, if the master or person having the charge or command thereof shall, within eight days after his arrival within any district of the United States, deliver up the said certificate to the collector of such district, then the said obligation shall be void, and of no effect; but otherwise shall remain in full force and virtue.

JOHN F. PATTERSON. [L. s.]
F. E. SHEPPERD. [L. s.]

Signed, sealed, and delivered in the presence of—

S. P. I. C. R. Deck, 1; mast, 1; length, 216; breadth, 24 $\frac{1}{2}$; depth, 10.9; height,

Under tonnage-deck.....	375.82
Between decks above deck.....	.....
Inclusures on upper deck.....	66.02
Total.....	441.84

Steamer R. S. Scroll. S. Iron.

B. F. WYMAN,
JAS. HAGGERTY,
Deputy Collectors.

DISTRICT AND PORT OF NEW YORK,
Collector's Office.

I hereby certify the within to be a true copy of the original on record in this office. Given under my hand and seal this 18th day of November, 1873.

[SEAL.]

R. WYNKOOP,
Deputy Collector.F. W. J. S.
Fees 50 cents.
G.

[Inclosure 2.]

List of persons composing the crew of the steamer *Virginus*, of New York, whereof Shepperd is master, bound for Curaçoa.

Names.	Places of birth.	Places of residence.	Of what country citizens or subjects.	Aged.	Description of their persons.		
					Height.	Complexion.	Hair.
H. Marquis.....	New York.....	New York.....	United States	36	ft. in.	Light...	Light.
Ed. Greenwood.....	do.....	do.....	do.....	29	5 8		
James E. Fox.....	do.....	do.....	do.....	39	5 7		
Walter Robinson.....	Georgetown, D. C.....	do.....	do.....	37	5 10		
William Quigley.....	Washington.....	do.....	do.....	32	5 6		
Thomas Gallagher.....	Ireland.....	do.....	do.....	37	6 2		
Andrew Cox.....	do.....	do.....	do.....	29	6 0		
George W. Miller.....	New York.....	do.....	do.....	25	5 8		
Daniel Shea.....	Ireland.....	do.....	do.....	26	5 6		
Stephen Cox.....	New York.....	do.....	do.....	26	6 2		
Peter Myers.....	Ireland.....	do.....	do.....	32	5 4		
Ambrose Rowling.....	New York.....	do.....	do.....	25	5 9		
Thomas Bowers.....	do.....	do.....	do.....	27	5 6		
Ed. Dooly.....	Boston.....	do.....	do.....	27	5 8		
Hugh Green.....	Ireland.....	do.....	do.....	18	5 9		
Michael McCarty.....	do.....	do.....	do.....	24	5 3		
John McCormack.....	New York.....	do.....	do.....	21	5 9		
Daniel Bassett.....	do.....	do.....	do.....	15	4 11		
Thomas Griffiths.....	do.....	do.....	do.....	42	5 9		
William Fisk.....	Sweden.....	do.....	do.....	54	5 9		
Frank Zumann.....	Prussia.....	do.....	do.....	30	5 7		
Thomas Anderson.....	Germany.....	do.....	do.....	32	5 7		
George Anderson.....	Norway.....	do.....	do.....	24	5 9		
William Johnson.....	Sweden.....	do.....	do.....	32	5 7		
Daniel Young.....	Delaware.....	do.....	do.....	33	5 6		
John Maximore.....	New York.....	do.....	do.....	44	5 11		
William Angabur.....	Hamburg.....	do.....	do.....	32	5 7		
Solomon W. Johnson.....	New York.....	do.....	do.....	27	5 9		
Ed. Rogers.....	do.....	do.....	do.....	53	5 4		
Dolan Stoker.....	Philadelphia.....	do.....	do.....	21	5 5		

F. E. SHEPPERD, *Master*.

STATE OF NEW YORK, ss:

I, Hy. Camerden, jr., public notary, do hereby certify that, on the day of the date hereof, before me personally came and appeared F. E. Shepperd, master or commander of the steamer *Virginus*, now about clearing out for Curaçoa, who, being duly sworn, did solemnly and sincerely declare that the above list contains the names of the officers and crew of the said steamer, together with the places of their birth and residence, as far as he hath been able to ascertain the same.

Given under my hand and seal of office, at the city of New York, this 4th day of October, 1870.

[SEAL.]

HENRY CAMERDEN, JR.,
Notary Public.

CITY OF NEW YORK, ss :

I, the undersigned notary public, do hereby certify that the within-named persons who compose the company of the within-mentioned steamer, whereof Shepperd is at present master, having produced to me proof in the manner directed by the laws of the United States, I do certify that the several before-mentioned persons are all citizens of the United States, except

In testimony whereof I have hereunto affixed my name and seal of office the 4th day of October, 1870.

[SEAL.]

HENRY CAMERDEN, JR.,
Notary Public.

DISTRICT AND PORT OF NEW YORK,
Collector's Office.

I hereby certify the within to be a true copy of the original on file in this office.

Given under my hand and seal this 20th day of November, 1873.

[SEAL.]

A. PUFFER,
Deputy Collector.

F. W. J. S.

Know all men by these presents that we, F. E. Shepperd, master or commander of the steamer called the *Virginus*, now lying in the district of New York, and Hy. Camerden, jr., are held and firmly bound unto the United States of America in the full and just sum of four hundred dollars, money of the United States, to which payment well and truly to be made we bind ourselves jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this 4th day of October, in the year one thousand eight hundred and seventy. Whereas the above bounden master hath delivered to the collector of the customs for the district of New York, in the State of New York, a verified list, containing, as far as he can ascertain them, the names, places of birth, residence, and description of the persons who compose the company of the said steamer now lying in the said district, of which he is at present master or commander, of which list the said collector has delivered to the said master a certified copy:

Now, the condition of this obligation is such, that if the said master shall exhibit the aforesaid certified copy of the list to the first boarding officer at the first port in the United States in which he shall arrive on his return thereto, and then and there also produce the persons named therein to the said boarding officer, except any of the persons contained in the said list who may be discharged in a foreign country, with the consent of the consul, vice-consul, commercial agent, or vice-commercial agent there residing, signified in writing under his hand and official seal, to be produced to the collector of the district within which he may arrive, as aforesaid, with the other persons comprising the crew, as aforesaid, or who may have lied or absconded, or who may have been forcibly impressed into other service, of which satisfactory proof shall be then also exhibited to the said last-mentioned collector, then and in such cases the above obligation shall be void, and of no effect; otherwise it shall abide and remain in full force and virtue.

F. E. SHEPPERD. [L. s.]
HY. CAMERDEN, JR. [L. s.]

Sealed and delivered in presence of—
F. W. J. SIZER.

DISTRICT AND PORT OF NEW YORK,
Collector's Office.

I hereby certify the within to be a true copy of the original on record in this office.

Given under my hand and seal this 18th day of November, 1873.

[SEAL.]

R. WYNKOOP,
Deputy Collector.

F. W. J. S. Fees, 20 cents.

[Twenty-five-cent internal-revenue stamp.]

[Inclosure 3.]

Report and manifest of the cargo laden at the port of New York on board the steamship Virginius, whereof Shepperd is master, (or conductor,) bound for Curaçoa.

[441 tonnage. 31 crew.]

Marks.	Noa.	Packages and contents.	Quantities—pounds, gallons, &c.	No. 1.—Value of domestic merchandise.	No. 2.—Value of foreign merchandise free.	No. 3.—Value of foreign merchandise from bonded warehouse.	No. 4.—Value of foreign merchandise not from bonded wareh so which has paid duties.	No. 5.—Value of foreign merchandise on the passage in transitu from one foreign country to another.	To be landed at—
			<i>Lbs.</i>	\$680					} Curaçoa.
	170	Barrels bread....	13,600						
	2	Boxes saddlery...	400						
	4	Trunks clothing.....	350						

WOOD, NIEBUHR & CO., 18 EXCHANGE PLACE, New York, Oct. 4, 1870.

NOTE.—See instructions on the other side.

F. E. SHEPPERD.

[Int. rev. stamps, \$3.]

Master's oath on clearing outwards.

DISTRICT OF NEW YORK :

I, F. E. Shepperd, master or commander of the steamship Virginius, bound from the port of New York to Curaçoa, do solemnly, sincerely, and truly swear that the manifest of the cargo on board the said steamship, now delivered by me to the collector of this district, and subscribed with my name, contains, according to the best of my knowledge and belief, a full, just, and true account of all the goods, wares, and merchandise now actually laden on board the said vessel, and of the value thereof; and if any other goods, wares, and merchandise shall be laden or put on board the said steamship previous to her sailing from this port, I will immediately report the same to the said collector. I do also swear that I verily believe the duties on all the foreign merchandise therein specified have been paid or secured according to law, and that no part thereof is intended to be reloaded within the United States, and that if, by distress or other unavoidable accident, it shall become necessary to reload the same, I will forthwith make a just and true report thereof to the collector of the customs of the district wherein such distress or accident may happen. I do furthermore swear that I have not received on board said vessel, and have not under my care or within my control, and that I will not receive and convey, any letters or letter-packets addressed to any foreign country which have not been delivered to me from the post-office, except such as relate to the cargo and are addressed to the owner or consignee of said vessel, or such as are inclosed in a United States stamped envelope of a denomination sufficient in amount to cover the United States postage legally chargeable thereon, if the same had been posted and transmitted by the regular mail. And said cargo is truly intended to be landed at the port of Curaçoa. So help me God.

F. E. SHEPPERD.

Sworn to before me this 4th day of October, 1870.

W. A. MORRIS,
Deputy Collector.

J. A. H.

INSTRUCTIONS.

The outward manifests must correspond in every particular with the special or part manifests.

Column number 1 should embrace all domestic merchandise, whether exported "in bond under the internal-revenue act or otherwise;" also, to include all manufactures from foreign products, such as cordage from foreign hemp, sugar refined from foreign sugar, coffee and spices having been ground or adulterated, &c., &c.

Column number 2 should embrace all foreign merchandise "free" or "not dutiable."

Column number 3 should embrace all foreign merchandise exported from "bonded warehouse," duties remaining unpaid, or which, having been paid, are "returnable as drawback."

Column number 4 should embrace all foreign merchandise on which the duties have been paid, which has left the custody of the officers of the customs, provided the condition of the merchandise has not been changed; if remanufactured or adulterated, it becomes a domestic export, and must be classified as such under column 1.

Column number 5 should embrace all foreign merchandise "in transit" or entered for immediate exportation, and so declared upon the custom-house entry.

The above requirements will be exacted at the clearance-desks.

DISTRICT AND PORT OF NEW YORK,
Collector's Office.

I hereby certify the within to be a true copy of the original on file in this office.
Given under my hand and seal this 20th day of November, 1873.

[SEAL.]

A. PUFFER,
Deputy Collector.

F. W. J. S.

WOOD, NIEBUHR & Co., 18 EXCHANGE PLACE.

1867-'8.—New form shippers' manifest.—Part of cargo.

Manifest of part of cargo shipped by E. Titus on board the steamship *Virginus*, whereof Shepperd is master, (or conductor,) for Curaçoa.

Marks.	Numbers.	Packages and contents.	Quantities—pounds, gallons, &c.	No. 1.	No. 2.	No. 3.	No. 4.	No. 5.	To be landed at—
				Value of domestic merchandise.	Value of foreign merchandise free.	Value of foreign merchandise from bonded warehouse.	Value of foreign merchandise not from bonded warehouse which has paid duties.	Value of foreign merchandise on the passage to transit from one foreign country to another.	
	170	Barrels bread	13,600 lbs.	\$680	} Curaçoa.
	2	Boxes saddlery .....	.....	400	.....	.....	.....	.....
	4	Trunks clothing .....	.....	350	.....	.....	.....	.....

NEW YORK, October 4, 1870.

NOTE.—See instructions on the other side.

DISTRICT AND PORT OF NEW YORK:

I, A. M. D , do solemnly, sincerely, and truly swear that the within manifest contains a full, just, and true account of all the goods, wares, and merchandise shipped by E. T on board the within-named vessel or vehicle, and that the quantities and values which they truly bear in this port at this time. And I further swear that the said merchandise is truly intended to be exported to Curaçoa. So help me God.

A. M. DUNBAR.

Sworn to this October 4, 1870, before me,

W. A. MORRIS,
Deputy Collector.

J. A. H.

INSTRUCTIONS.

The outward manifests must correspond in every particular with the special or port manifests.

Column No. 1 should embrace all domestic merchandise, whether reported "in bond" under the internal-revenue act or otherwise; also to include all manufactures from foreign products, such as cordage from foreign hemp, sugar refined from foreign sugar, coffee and spices having been ground or adulterated, &c.

Column No. 2 should embrace all foreign merchandise "free" or "not dutiable" from warehouse.

Column No. 3 should embrace all foreign merchandise exported from "bonded warehouse," duties remaining unpaid, or which, having been paid, are returnable as drawback.

Column No. 4 should embrace all foreign merchandise free, or on which the duties have been paid, which has left the custody of the officers of the customs; provided the condition of the merchandise has not been changed; if remanufactured or adulterated, it becomes a domestic export, and must be classified as such under column 1.

Column No. 5 should embrace all foreign merchandise "in transit," or entered for immediate exportation, and so declared upon the custom-house entry.

The above requirements will be enacted at the clearance-desks.

DISTRICT AND PORT OF NEW YORK.

Collector's Office.

I hereby certify the within to be a true copy of the original on file in this office. Given under my hand and seal this 20th day of November, 1873.

A PUFFER,

Deputy Collector.

F. W. J. S.

[Inclosure 4.]

Deposition of Francis E. Shepperd.

UNITED STATES OF AMERICA,

Southern District of New York, ss :

To all to whom these presents shall come :

I, Joseph Gutman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting :

Know ye, that on the twenty-eighth day of November, in the year of our Lord one thousand eight hundred and seventy-three, before me, at my office, No 29 Nassau street, in the city of New York, appeared as a witness Francis E. Shepperd, a mariner, formerly on board the steamship *Virginus*, produced by the consul-general of Spain for the district of New York, in the United States of America; and that I was attended at the same time by Sidney Webster, esq., counselor at law in said city, representing the aforesaid consul-general of Spain, and by George Bliss, esq., attorney of the United States for the southern district of New York, attending by the direction of the Secretary of State of the United States, and that the aforesaid witness, having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth, in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me according to the laws of the United States, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose in my presence as follows, that is to say :

1. Question. Were you examined in the matter of the steamship *Virginus* before Commissioner Gutman on the 2d May, 1872?—Answer. I think I was—that was the date. It was in the spring or early summer.

2. Q. Where are you now residing?—A. Warrenton, Va.

3. Q. For how long a time did you follow the sea as a profession?—A. Nineteen or twenty years.

4. Q. Are you a graduate of the United States Naval Academy at Annapolis?—A. I am, sir.

5. Q. What year did you graduate?—A. Eighteen hundred and fifty-five.

6. Q. Were you subsequent to your graduation a teacher in that academy, and for how long a time?—A. I was for two years employed as an instructor in the department of English and ethics.

7. Q. Between what years?—A. Between 1858 and 1861.

8. Q. What year did you leave the naval service of the United States?—A. In 1861.

9. Q. Were you in the confederate service?—A. I was.

10. Q. In what capacity?—A. In a variety of capacities. I served some in the army and some in the navy, once or twice in command of an iron-clad.

11. Q. After the rebellion ended, were you in the American mercantile marine service?—A. I was.

12. Q. Please state in what capacities and in what ships.—A. In a bark—the name of which I have forgotten—from Baltimore to Havana as first mate; then two years afterward in command of a steamer, for two years consecutively, called the *Mary*, which ran in the Gulf between Mobile and Cedar Keys; then, afterward, the *Virginus*.

13. Q. Who were the owners of the steamer *Mary*?—A. During the first year that I commanded her she was owned jointly by Isaac K. Roberts, Colonel Ingersoll, of Mobile, and some few others whose names I have forgotten. After that she was represented to me to be solely owned by Isaac K. Roberts.

14. Q. You commanded, did you not, the *Virginius* on her voyage from Washington to New York in 1870?—A. I did.

15. Q. Who employed you for that command?—A. Isaac K. Roberts.

16. Q. How long have you known John F. Patterson?—A. Since 1870.

17. Q. Then you first knew him about the time you took command of the *Virginius*?—A. About three months before.

18. Q. When you sailed from New York in command of the *Virginius* on her voyage to Curaçoa, whom did you believe to be her owners?—A. I believed her real owners to be certain Cubans—themselves the real owners or the representatives of other Cubans. The names of these representatives or owners were General Quesada and José Mora.

19. Q. Did you, before sailing on this voyage to Curaçoa, have any conversation with John F. Patterson with respect to the ownership of the *Virginius*; if so, what was it, as nearly as you can recollect?—A. I did have conversations with Patterson on that subject. He said that the vessel would go in his name; and he, at that time and afterward, expressed to me regret at allowing his name to be used in connection with the ownership of the vessel.

20. Q. Did you, before sailing to Curaçoa, have any conversation with I. K. Roberts in respect to the ownership of the *Virginius*, and, if so, what statement did Roberts make to you on that subject?—A. I did; he stated to me that it was at the time not decided in whose name the papers should be made out—in his or in Patterson's—and informed me that he had bought her for these parties that I have referred to, perhaps not mentioning their names, but using the general term "Cubans." He said this thing, which I well remember, that of course she had to go out in the name of an American, as they (the Cubans) could not own an American ship.

21. Q. In what line of steamers, if you know, was Roberts interested at that time?—A. He had been, up to that time, managing either for himself or for his father, Marshall O. Roberts, a line of steamers known as the *Fernandina* and *Cedar Keys* line.

22. Q. Did Roberts say anything to you in respect to the purchasing of the *Virginius* back again from the Cubans for his line?—A. He did; he said that he was to have her for his line when she had finished running the blockade.

23. Q. Did I. K. Roberts say anything to you about not permitting the *Virginius* to be in his name, on account of the objections which his father, Marshall O. Roberts, had raised?—A. That he expressed himself in that exact language, I would not say, but his objection, as I now recollect it, was expressed in language which produced that impression on my mind.

24. Q. At what time did you first get a suspicion that the *Virginius* was to be used by the Cubans against Cuba, if at all?—A. About ten days before Mr. Roberts informed me of the fact, and about two weeks before she sailed. My suspicions were aroused by the fact that the repairs which were being put upon the vessel were inadequate to the kind of service in which the other steamers of this line or any passenger steamer required.

25. Q. Did you have any interview with José Mora, at which he showed to you the bills which he had paid for the repairs of this steamer?—A. I did; at an office in No. 29 Broadway, New York City. This interview was about January, 1871, as well as I recollect; after I returned from Puerto Cabello.

26. Q. State as nearly as you can what Mora said to you on that occasion.—A. He spoke of the large amount of money expended for fitting out the *Virginius*, and I think showed the bills to me more in connection with his disappointment at not having gone to Cuba, or as much for that reason as others. He showed me Patterson's receipt for the purchase money paid to him, and the bills for repairs. Many of the bills I recognized myself as having approved them.

27. Q. Do you remember to have seen, at any time, any bill of sale of the *Virginius* from Patterson?—A. I do not.

28. Q. You say that you identified many of the bills as being for repairs which you knew were actually made on the *Virginius*?—A. Yes.

29. Q. Was this the same Mora with whom, as you testified in your previous examination, you had an interview at his house, in company with Quesada, where your employment on the *Virginius* was arranged?—A. The identical man.

30. Q. Did you have any conversation with any consuls of the United States, at ports or places around the Caribbean Sea, or thereabouts, in respect to the character of the business of the *Virginius*; if so, with whom?—A. I did; the first one with the consul at Curaçoa, Faxon by name, I think; next with the consul at Lagnayra, whose name I have forgotten; next with Lacombe, at Puerto Cabello. I do not embrace them all in the same category, as having said the same things about it. I made no reply to the assertion made by Consul Faxon, that though the papers of the *Virginius* were all right, that in his official capacity he had nothing more to do than to

recognize her as an American vessel; but that he clearly understood the object of her mission in the Caribbean Sea, and was personally in sympathy with it; this was at Curaçoa.

31. Q. What did the consul at Puerto Cabello say to you, if anything?—A. The consul at Puerto Cabello asked me to make a statement to him with regard to a rumor which he had heard that the steamer was to be employed in the Venezuelan service, in the revolution then going on in that country, and I stated to him that to the best of my knowledge such was not the intention of those interested in the vessel, nor should such service be rendered by me while in command of her.

32. Q. What did the consul at Lagnayra say to you, if anything?—A. The consul at Lagnayra said that while he, in his official capacity, recognized the nationality of the vessel, because of the papers and flag, he clearly understood what the object of her being there was; and treated with Varona, who was on board, and who, when Quesada was absent or present, generally represented him and acted for him.

33. Q. What did the consul at Puerto Cabello and Varona treat about?—A. In the first place, the payment of the crew, and the selection of a successor to myself; and altogether recognized the Cubans there represented by Quesada and Varona as the parties who had all to say about the vessel.

34. Q. Were you present at any of these treaties or conferences?—A. I was, once or twice.

35. Q. Did you hear these things done, of which you have just spoken?—A. I did. Yet I would say that in the matters of papers and of records in this matter, all the technical formalities were not lost sight of in connection with it.

36. Q. Did Varona or Quesada have any conversation with you at any time while captain in respect to changing the flag of the *Virginus*?—A. They did.

37. Q. Please state that conversation as carefully and correctly as you can, and state when and where it occurred.—A. I will make a preface to it by saying that at the island of Buen Ayre, where the guns were taken on board from the schooner *Billy Butts*, the crew manifested a natural desire to know what was to be done with the guns, and what compensation they would get for the risk of carrying those guns to Cuba, if such was the intention; made an agreement with General Quesada for the prepayment to them of certain sums per capita, and a certain other sum; the first to be paid in advance and placed in my hands, which was done, the last being received by them after the vessel should have successfully made the landing or otherwise run the Cuban blockade. It was nearly two months after this that General Quesada, through his representative Varona, (who spoke English,) addressed the crew on the deck of my ship, stating that this contract was to be annulled; that the vessel would have to perform for the present other service, and that it might become necessary to change the flag; and under these altered circumstances he desired to know how many of the crew would remain by the ship and obey his orders. About this juncture of his address I interrupted him by demurring slightly to the proposition to change the flag, or to alter at that time, or any time, the exact nature of the enterprise for which I was employed in New York; and receiving verbally no satisfactory reply, I wrote Quesada a letter stating these intimated changes as the ground of my suspicions, and requesting him to state positively whether my suspicions were groundless or not; and stating that if such change were meditated I would turn the vessel over to him, recognizing her as his property. I did not in this letter say anything as to the formal ownership of the vessel; but in conversation with him through an interpreter, and with several of the Cubans, I gave him to understand that, though I should abandon the enterprise then, I should take no advantage of the fact that she bore the American flag, and that she was nominally owned by an American citizen, and would not interrupt them in any enterprise they saw fit to engage in looking to the liberation of Cuba. I would say, incidentally, that this change, of which they would not say anything in writing, was talked about between themselves and myself; that change meant assistance to the government of Guzman Blanco, or to Venezuela, for the reason that when the revolution was put down Guzman Blanco would give them men and otherwise assist them in getting to Cuba.

38. Q. What answer did Quesada make to that letter?—A. His answers were vague. He did not state what the change was, but said that it was to be a radical change. Quesada did not state that in writing, but verbally. He did answer my letter in writing.

39. Q. How soon after this occurrence did you leave the *Virginus*?—A. That instant.

40. Q. Where was this?—A. Puerto Cabello, Venezuela.

41. Q. Did they pay you for your services up to that time?—A. But partially.

42. Q. How much, if you remember?—A. About five hundred dollars in all, I think.

43. Q. Who paid you the money?—A. A portion of it Mr. Patterson gave me a check for, before I sailed from New York; the remainder I got in small sums from Quesada. I had quite a large amount, I forget now how much, which I turned over to him immediately on resigning the command of the vessel, and also this draft that was given to me for the crew when they threatened to mutiny.

44. Q. Did you have any conversation with Patterson about the ownership of the *Virginius* after you returned to New York from Puerto Cabello?—A. I did.

45. Q. Please state what he said to you.—A. When the aspect of affairs looked to the privilege which he might enjoy as the formal owner of the vessel, he then, in conversations, expressed to me regret that I did not bring the *Virginius* home; and at other times he fully indorsed the honesty of my action in allowing her to remain in the hands of those who had paid the money for her. He said to me at one time: "Damn it, she ain't mine anyhow." Both he and Roberts (though I never saw Roberts after I came back) did expect to be benefited in some way by the services of this vessel when she should have completed her mission of running the Cuban blockade.

46. Q. Did you know how they intended to be benefited?—A. I do not know exactly how, though they could have run her in the Gulf. Their line at that time was ended; they never continued it afterward. They could have run her in the Gulf, between New Orleans and some ports of Florida, or perhaps to Havana, though that would be risky.

47. Q. How did you understand that they were to use her, if Patterson and Roberts had parted with their property in her after she came back?—A. My impression is that they were to buy her back for a very small sum of money. My recollection of all these things is a little dim now, as I have been absent for a few years.

Being cross-examined by George Bliss, esq., United States attorney, he says:

48. Q. What is your present occupation?—A. I am acting for the agent of a railroad; I am actually the agent, though there is another party nominally the agent. It is known as the Orange and Alexandria Railroad.

49. Q. When and under what circumstances did you first become acquainted with Mr. Patterson?—A. When I brought the steamer *Mary* from Mobile to New York, in the summer of 1870, he at that time being the agent in New York of the joint lines of railroad and steamers, of which she was one, to Mobile, Ala., from New York.

50. Q. You say that after your return Mr. Patterson showed you the bills?—A. Mr. Mora.

51. Q. Mr. Mora showed you the bills. Was one of them for the purchase-money of the vessel?—A. That is my recollection now, though whether it was in the form of a bill of sale, or not, I do not know. I feel satisfied that that was an item shown to me among the list of moneys paid to Patterson.

52. Q. Do you remember the amount?—A. I do not.

53. Q. Can you give any impression upon it?—A. I am under the impression that it was some nine thousand dollars; about that. That is my impression. It was the largest amount in the list; that is my impression. I once or twice asked Roberts what he gave for her, before I ever heard of this thing, and I don't think he ever answered the question.

54. Q. Might it not have been an item of the amount paid by Patterson in the purchase of the vessel by him?—A. That I do not know, but I will state this: that Mora's manner and intention, expressed at the time, by showing me these bills, was to convey the idea upon my mind that a large amount of money had been expended for this expedition, in proof of which he showed me these itemized payments, the particular items of which I have now forgotten. That is about as clear as I can put it.

55. Q. This conversation with Consul Faxon, under what circumstances did it occur?—A. In going from his office in Curaçoa, across a lagoon to visit a family to whom he was going to introduce me.

56. Q. Did he state what he understood the object of her mission to be?—A. He expressed to me that he understood what she was going to do. That he said she was going to Cuba I do not now remember, but that he clearly understood what was to be done; that in his official capacity he saw nothing wrong in the vessel, and that personally he was in sympathy with the enterprise. As consul he was guarded, I think, not to allow his official capacity to conflict with his personal feeling, and therefore did not express himself very plainly, as I recollect.

57. Q. It was not the consul at Puerto Cabello who asked about her employment in the Venezuelan service?—A. No; the consul at Laguayra, I mean.

58. Q. Did that consul at Laguayra inquire about her employment in any other service?—A. He did not.

59. Q. Did not?—A. No, sir; he did not say anything about it.

60. Q. Was it the consul at Puerto Cabello or at Laguayra whom you have referred to as treating with Quesada and Varona with reference to the vessel?—A. The consul at Puerto Cabello.

61. Q. Give his name.—A. Lacomb; of French descent, though I believe a native of this country.

62. Q. Precisely when did the address by Varona as to changing the flag take place?—A. I will have to refer to notes of mine at home to tell the time. It was in November.

63. Q. November, 1870?—A. November, 1870.

64. Q. At the time that Varona addressed the crew was Quesada present?—A. He was.

65. Q. Did Quesada understand English?—A. When spoken slowly he could understand a conversation.

66. Q. The intention referred to of changing the flag was to change it to the Venezuelan, was it?—A. That was the rumor, though that was not expressed.

67. Q. Was anything said about her ever flying the Cuban flag, of an intent to fly the Cuban flag at any time?—A. There was a suggestion made to me as to the propriety of doing so, by Varona, coming from Quesada, but not this Varona that made this speech, but by Dr. Varona. The suggestion was made to me, on the voyage out, to use the Cuban flag and to board and capture a vessel then in sight, if she should turn out to be Spanish. I said the Cuban flag should not be used. But I told them they could very easily overpower me, meaning that I would give my consent to being overpowered, and they could tie me in the cabin, and lower the boats and capture this vessel.

68. Q. How did it happen that you were not paid in full?—A. For the reason that the absence of written agreement in New York left me to depend upon men without honor to pay me by virtue of a verbal understanding between them and me.

69. Q. Then they claimed they had paid you in full, did they?—A. Yes.

70. Q. What was your view of the amount they had agreed to pay—by the month or voyage, whatever it was?—A. Well, it is a long matter.

71. Q. I merely want to know what the amount was.—A. It was subjected to various contingencies. For instance: I said to them, "Gentlemen, if I undertake this thing, mark you, I go at great risk. I know the Spanish will shoot me, therefore I run great risk. I run the risk of the crew mutinying, and my going to subject American citizens to danger. But," says I, "I am ready, and at all times ready, to undertake this thing: but if you do not furnish me with the means, mark you, I have in spirit fulfilled my agreement with you; and, therefore, you must pay me, in consideration of that, something." And then I was to get—I have forgotten now—several thousand dollars, in case I succeeded; I think it was five, if I succeeded in running the blockade. I have forgotten the amount; several amounts were talked over. But I was to have for all the time I was gone double pay; but my pay was only to be put down at \$150 a month, in order not to excite suspicion at the custom-house by so high pay for so small a vessel. They all understood that.

72. Q. You said in your former deposition that Mora informed this deponent that the steamer *Virginus* was the property of certain Cubans together, and represented by Mora, Quesada, and Manuel Ruiz, and they explained to you in part the manner in which the funds were raised for the purchase of the steamer and the disbursements of her voyage and enterprise. When did he so inform you? Before you sailed or after you returned?—A. My impression is that he did this. I so understood it from him before, and so understood it from conversations with him afterward.

73. Q. My question is directed particularly to his explanation to you in part of the manner in which the funds were raised. Was that before or after you went?—A. After, I think.

74. Q. What did he say to you as to the manner in which the funds were raised?—A. My recollection is, through subscriptions made here in New York, moneys raised by Quesada in Europe, and the sacrifice of trinkets and jewelry by the ladies sympathizing with Cuba. That is my recollection.

75. Q. Were you aboard the vessel at the time when the marine lawyer, Gallagher, made the complaint to some consul?—A. I was not.

76. Q. Was that after you left?—A. That was after I left.

77. Q. Do you know any reason why, after taking aboard the cargo of the *Billy Butts* at Buenos Ayres, the vessel did not undertake to run the blockade?—A. I understood the delay then to be the want of soldiers to accompany the landing.

78. Q. Did you understand that she went to Venezuela for the purpose of getting soldiers?—A. When I sailed from New York I knew she was going to that section of the Caribbean Sea, to fall in with men and arms. Did not know where the arms were to come from or the men. Did not at sailing suppose they were to be enlisted in Venezuela. My first impression was that they were to be Cuban patriots, who had lodged on this island, wishing an opportunity to avenge their country's wrongs.

79. Q. But when you left Craçoa, or left that vicinity, after taking the arms on board, did you then understand that she was going to Venezuela for soldiers?—A. My recollection is that that was then my impression.

80. Q. Did you ever know of any attempt being made to get soldiers?—A. I heard of it frequently from Varona and from Quesada; and Quesada, in the little English that he talked, expressed to me his great regret of the revolution then existing in Venezuela, and there was a general regret expressed on the part of his compatriots that the existence of this revolution deterred the running of the Cuban blockade at that time.

F. E. SHEPPERD.

Subscribed and sworn to before me this 28th day of November, 1873.

JOSEPH GUTMAN, JR.

United States Commissioner, Southern District of New York.

And now I, Joseph Gutman, jr., a duly-appointed commissioner of the United States for the southern district of New York, in attestation, do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witness, and were in my presence signed by him; and, in attestation of the verity and solemnity of all of the foregoing, I do hereby attach my signature and seal of office this twenty-eighth day of November, in the year one thousand eight hundred and seventy-three.

[SEAL.]

JOSEPH GUTMAN, JR.,
United States Commissioner, Southern District of New York.

[Inclosure 5.]

Affidavit of Francis Bowen.

UNITED STATES OF AMERICA,
Southern District of New York, ss :
 To all to whom these presents shall come :

I, Joseph Gutman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting :

Know ye, that on the twenty-sixth day of November, in the year of our Lord one thousand eight hundred and seventy-three, before me, at my office No. 29 Nassau street, in the city of New York, appeared as a witness Francis Bowen, a mariner, formerly on board the steamship *Virginus*, produced by the consul-general of Spain for the district of New York, in the United States of America, and that I was attended at the same time by Sidney Webster, esq., counselor at law in said city, representing the aforesaid consul-general of Spain, and George Bliss, esq., attorney of the United States for the southern district of New York, attending by the direction of the Secretary of State of the United States, and that the aforesaid witness having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me according to the laws of the United States, and the following affidavit made by the said Bowen before H. J. Begly, esq., having been delivered in my presence into the hands of Mr. Bliss, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose in my presence as follows, that is to say :

SOUTHERN DISTRICT OF NEW YORK, ss :

FRANCIS BOWEN, being duly sworn, deposes and says : That he is by profession a master-mariner, was born in the State of New York, is forty-nine years of age, and is at present residing in the city of New York ; that he has followed the sea as a profession for upward of thirty-two years, and commanded vessels since twenty-two years ; that among the vessels he has commanded are the barks *Comet*, *Sultana*, and *Jane*, the brig *Victorine*, the clipper-ships *Kate Hooper* and *Nightingale*, the schooner *Mariguita*, the steamships *Vera Cruz* and *J. C. Harris*, and many small steamers in China ; that he was first officer in the Pacific mail-steamer *Colon* from April 1, 1873, to about September of the same year.

And this deponent further says, that on the last of March or first of April, in the year 1872, he assumed command of the steamship *Virginus* at *Aspinwall*, and continued in command of her from that date till the latter part of June, in the same year, when he left her at *Puerto Cabello* ; that the commander of the said steamer who immediately preceded him therein was one *Marquez*, and engineer on said steamer, but not a seaman, and that he was informed and believes that the person in command of said steamer immediately before the last-named, *Marquez*, was a Venezuelan or a Cuban, and that the commander immediately preceding the last-named person was *Capt. F. E. Shepperd*.

And this deponent further says, that in March, 1872, he was at *Panama*, on his way from *New York* to *China*, and while there his attention was called to the *Virginus* by her previous captain, *Marquez*, before mentioned, who said she was in need of a commander, and this deponent replied that he would take command of her if well paid, and the said *Marquez* referred this deponent to *Rafael Quesada*, then in *Panama*, a brother of *Gen. Manuel Quesada*, now of the city of *New York* ; that this deponent had an interview with the said *Rafael Quesada*, who informed him that he could not make any agreement for a commander, but this deponent must see his brother, the aforesaid *Manuel Quesada*, who was at *Aspinwall* ; and this deponent did thereupon go to *Aspinwall*, and did there have an interview with the said *Manuel Quesada*, at the *Betan Court Hotel*, in *Aspinwall*.

And this deponent further says, that on the interview he had with the said Manuel Quesada, a Cuban named Pedro or Francia Alfaro was present as a chief executive officer or business man; that this deponent, at that interview, asked the said Manuel Quesada in what business the *Virginus* was to be engaged, when and what sum he would pay this deponent to be captain; that to this question the said Manuel Quesada replied that the steamer was to attempt to land an expedition on the coast of Cuba, and that he would pay this deponent three hundred dollars a month to be captain, and an advance of two hundred dollars; and if an expedition was successfully landed in Cuba, he would give this deponent \$5,000 in addition, beside his pay as aforesaid, and perhaps a larger sum; and the said Quesada also said to this deponent that if an expedition was lauded safely in Cuba, everything would then be very prosperous with the Cuban junta in New York, and this deponent should command a new ship, and one armed as a privateer.

That this deponent did at that interview engage and hire himself to command the said steamer, and that he entered into the arrangement with the said Manuel Quesada as controlling the said steamer, and that he never knew or saw any one then or at any time who assumed any control over her; and thereupon the said Manuel Quesada took this deponent on board the *Virginus*, then lying at Aspinwall, and presented him to the engineers, and all the persons on board, as the commander of the steamer.

That this deponent immediately took command of the said steamer, and found that a large number of Cubans, said to be fifty or sixty, living in barracks near by, were supplied each day with provisions from the said steamer; that when this deponent took command there was no American flag on the steamer, but one was purchased by him; that no concealment was practiced by this deponent, either with the consul of the United States then in Aspinwall, or with any other person, in respect to the character and destination of the said steamer; and that on or about the first of May, or last of April, he cleared the steamer before the United States consul; and this deponent sailed without any verbal orders from the said Manuel Quesada, except instructions from him that he had given sealed instructions to the aforesaid Alfaro, who would be on board, and that when said instructions should be opened at sea they were to be obeyed; that the said Alfaro did sail on board the steamer, together with a few other Cubans, and a large number of bags of clothing; that the Spanish steamer *Pizarro* was then lying in the port of Aspinwall, and, on the suggestion of the consul of the United States, the United States steamer *Kansas*, which arrived in Aspinwall about this time, escorted the *Virginus* outside the port, followed also by the aforesaid steamer *Pizarro*; and when this deponent had got well to sea, the sealed orders in the hands of the said Alfaro were opened, and found to be signed by the said Manuel Quesada, who directed the steamer to proceed to Carthagena, and there await further orders.

That this deponent had frequent conversations with one Perry, then consul or consular agent of the United States at Aspinwall, in respect to the character and the business of the steamer *Virginus*, and that the said consul perfectly understood the character of her employment, and who controlled her.

That when the *Virginus* arrived in the port of Carthagena there was much exultation on the part of certain people there who knew of the character of the steamer; that the crew became mutinous, and this deponent applied to the United States consul or consular agent, who procured them to be placed in prison; that the said consul or consular agent was perfectly well aware of the character of the business in which the said steamer was engaged, as this deponent knows by conversation with him; that after repairing the steamer, and taking in coal, she proceeded, by the direction of Alfaro, to Puerto Cabello.

That when the *Virginus* arrived at Puerto Cabello, as aforesaid, she was out of coal and leaking badly in both compartments; that the said Manuel Quesada soon after arrived in that place; that it was impossible to make the needed repairs on her, nor was there any money forthcoming with which to buy necessary provisions and supplies for the steamer, and all her crew, together with the chief engineer, were discharged, there being retained on board only two Cuban engineers, one named Chamberlain and another named Knight, both of whom the newspapers say were on board the *Virginus*, and recently executed at Santiago de Cuba; and that this deponent thereupon resigned his command of said steamer, and shortly after left for Caracas, from which place he returned to Puerto Cabello two months afterward, remained there a week, and then proceeded to New York, after which this deponent became first officer, as aforesaid, of the Pacific mail-steamer *Colon*.

That this deponent was informed while at Puerto Cabello, and believes, that the *Virginus* had a few months previously been at that port, and in the service of Guzman Blanco, then engaged in civil war in that country; that while at Puerto Cabello this deponent had frequent conversations with the American consul, and the latter admitted and stated to this deponent that he was perfectly aware of the business in which the *Virginus* was engaged; that on several occasions this deponent appeared before the said consul in company with the said Manuel Quesada in respect to the affairs of the said steamer, and particularly in respect to discharging her crew, at which said

interviews the said consul could not fail to see, in the opinion of this deponent, that the said Quesada was the manager and sole controller of the said steamer as owner, and that while the said steamer was lying at Puerto Cabello, as aforesaid, orders were issued that no supplies of any kind should be furnished to the steamer unless on written orders, signed by the said Manuel Quesada or the said Alfaro.

And this deponent further says, that during the time he was in command of the said steamer he never saw any mark of her number or of her tonnage carved or marked on her main beam, as required by the laws of the United States, and he never heard until quite recently that she had any number, and that the said steamer had been lying at Aspinwall for about six months previous to this deponent assuming command thereof; and this deponent further solemnly declares that, during all the time he was in command of the said steamer, he never supposed or believed that she was under any other control than that of the aforesaid Manuel Quesada in behalf of the Cubans, nor did he ever suppose or believe that the steamer was to be engaged in any legitimate business.

FRS. BOWEN.

Sworn to and subscribed before me this 22d day of November, 1873.

H. J. BEGLY,
Notary Public, Kings County, New York.

Being cross-examined by George Bliss, United States district attorney, he says:

1. Question. Under what circumstances did you leave the *Virginius*?—Answer. I left her when they had no more money to pay me my wages.
2. Q. During the time you were in command of her where did she go?—A. She went from Aspinwall to Carthagena, and Carthagena to Puerto Cabello.
3. Q. That is all?—A. That is all.
4. Q. How long did she lie at Carthagena?—A. I think about ten days.
5. Q. How long did she lie at Puerto Cabello before you went to Carthagena?—A. I went from Carthagena to Puerto Cabello in her.
6. Q. Where did you take command of her?—A. In Aspinwall.
7. Q. How long were you in command of her in Aspinwall before she left Aspinwall?—A. Over a month; but I can't give the exact date.
8. Q. How long did she lie at Carthagena?—A. Over ten days.
9. Q. How long at Puerto Cabello before you left her?—A. Somewhere about three weeks, I think.
10. Q. Who paid you?—A. General Quesada.
11. Q. Where?—A. Aspinwall and Puerto Cabello.
12. Q. While you were at Carthagena what were you doing?—A. Repairing the ship. She sprung a leak, and it was necessary to repair that leak, and take in coal.
13. Q. While at Puerto Cabello what was she doing?—A. Nothing.
14. Q. How large a crew did you have?—A. We were very short-handed. I think we had about six deck-hands, and about nine in the fire-room.
15. Q. That included engineers?—A. Three engineers besides that, and some water-tenders who were Cubans.
16. Q. Did you have any armament?—A. No.
17. Q. No guns?—A. No large guns.
18. Q. What do you mean by "large guns"?—A. Cannon. We had some muskets and pistols.
19. Q. How many?—A. O, a couple of dozen.
20. Q. Have any cargo on board at any time?—A. Nothing except bags of clothing.
21. Q. How much of that?—A. Well, I suppose there might have been a hundred bags of it.
22. Q. Containing what kind of clothing?—A. All sorts; a good deal of linen stuff to be put into uniforms for soldiers.
23. Q. What do you mean by a "good deal"?—A. I mean thirty bags of cloth and canvas.
24. Q. How do you know it was to make into uniforms for soldiers?—A. I was told so by Quesada.
25. Q. Did you have any passengers on board?—A. None as passengers.
26. Q. Quesada on board?—A. Alfaro was on board.
27. Q. Alfaro on board all the time?—A. All the time.
28. Q. As a passenger?—A. As a passenger.
29. Q. Did he exercise any control over the ship?—A. Yes, sir; all control.
30. Q. He had his orders from Quesada which you have referred to in your affidavit?—A. Yes, sir.
31. Q. How long had you known Mr. Marquez?—A. I had never known him until I met him in Panama.
32. Q. You met him accidentally?—A. I met him at the hotel there.
33. Q. What had been your last command prior to taking command of the *Virgin-*

ius?—A. I will have to stop to think about that. My last command was a vessel in China, a steamboat in China, called the White Cloud.

34. Q. How long before you arrived in Aspinwall was it that you gave up command of that vessel?—A. Two or three years.

35. Q. What had you been doing in that time?—A. I had been agent for a Havana house in Macao.

36. Q. All the time?—A. Not all the time, because I was unemployed part of the time.

37. Q. Had you just given up that agency?—A. No; I had been home for part of a year.

38. Q. Where was your home?—A. Here in New York. I went to Aspinwall, and was on my way to China again.

39. Q. Did you leave here with any anticipation of having any connection with the *Virginus*?—A. No.

40. Q. Had you known Rafael Quesada?—A. No, sir.

41. Q. Had you known Alfaro Quesada?—A. No, sir.

42. Q. What pay did you get?—A. Three hundred dollars a month.

43. Q. That was all?—A. Yes.

44. Q. Did you ever make any attempt to land in Cuba?—A. No, sir.

45. Q. When you took command was there any flag on board the *Virginus*?—A. No, sir.

46. Q. Of no nationality?—A. No, sir.

47. Q. You state that Consul Perry at Aspinwall perfectly understood the character of the employment of the *Virginus*, and who controlled her; what facts can you give to show that to be so?—A. Well, the fact that he referred me continually to Quesada; that I was a medium of communication between the two of them always.

48. Q. Any other?—A. Well, from the fact that he mentioned the thing to me continually.

49. Q. Mentioned what?—A. Why, the purpose for which the ship was to be used, running the blockade.

50. Q. What did he say the purpose was?—A. Carrying arms, &c., to Cuba.

51. Q. Perry said so?—A. Perry said so.

52. Q. Anything else?—A. Not that I recollect of. It was a common understanding between us.

53. Q. You say there was much exultation on the part of certain people at Carthagena. Whom do you refer to?—A. Well, a number of Cubans there, and, they say, sympathizers with the Cubans.

54. Q. For what reason did the crew become mutinous?—A. On account of a lack of food and hard work.

55. Q. You say that the consul and consular agent that were at Carthagena knew perfectly well the business that the *Virginus* was engaged in, as you know from conversations with them. Can you state those conversations or their substance?—A. We always spoke of the *Virginus* as exactly that kind of vessel; that she belonged to the Cubans, and was to run the blockade, and carry arms through. There were no pretensions made to keep the thing quiet.

56. Q. Did you ever see the *Virginus* after you left her?—A. Yes; I saw her in Puerto Cabello.

57. Q. How long after did you see her in Puerto Cabello?—A. Two months.

58. Q. Did you see her after that?—A. Yes; I saw her at Aspinwall when she left, and was escorted out. I was aboard of her at the time.

59. Q. You took command of the vessel, then, believing that she was owned by the Cubans?—A. Yes, sir.

60. Q. But sailing her under the American flag, purporting to be a vessel of American ownership, and intended, as such, to be used in landing arms and munitions upon the island of Cuba, against the consent of the Spanish government?—A. Yes, sir.

62. Q. And you lent yourself to that purpose for the compensation of \$300 a month, and the contingent fee that you should receive in case of success?—A. Yes, sir.

63. Q. Since you left the Pacific mail-steamship in September, 1873, have you been engaged in any business?—A. No, sir.

64. Q. You left voluntarily?—A. Well, I can't say I left voluntarily. I left from disagreement with the president of the company. I left one ship under promise of being transferred to another one, and then I was not transferred.

65. Q. How came you to make this affidavit?—A. Well, when I first heard the news of the *Virginus* being taken, when those first four people were executed, when the news first came here, a friend of mine mentioned to me that my testimony might be of some importance, and I asked him to go and see if it would be.

66. Q. Go and see whom?—A. Go and see Mr. Webster.

67. Q. As a result of that you made this statement?—A. As a result of that I made this statement.

68. Q. You did not put yourself in communication with the officers of your own Government?—A. No, sir.

69. Q. Have you received any compensation or any promise of any compensation?—A. Well, my business is to go to sea; if I am detained on account of this, I am promised to be compensated for the time that I lose.

70. Q. Have you been detained ashore in consequence of this?—A. Yes; I suppose I have been sick in consequence of this.

71. Q. When did this first commence?—A. I have been sick for the last ten days.

72. Q. When did you first put yourself in communication?—A. I think it was about two weeks ago.

73. Were you going to sea at that time?—A. I had made application for a berth at that time, and probably should have succeeded in getting it.

FRANCIS BOWEN.

Subscribed and sworn to before me this 28th day of November, 1873.

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District New York.

And now I, Joseph Gutman, jr., a duly appointed commissioner of the United States circuit court for the southern district of New York, in attestation, do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witness, and were, in my presence, signed by him, and in attestation of the verity and solemnity of all the foregoing, I do hereby attach my signature and seal of office this twenty-eighth day of November, in the year one thousand eight hundred and seventy-three.

[SEAL.]

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District of New York.

[Inclosure 6.]

Deposition of Francis Bowen.

UNITED STATES OF AMERICA,

Southern District of New York, ss:

To all to whom these presents shall come:

I, Joseph Gutman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting:

Know ye, that on the 5th day of December, in the year of our Lord one thousand eight hundred and seventy three, before me, at my office, No. 29 Nassau street, in the city of New York, appeared, as a witness, Francis Bowen, a mariner, formerly on board the steamship *Virginus*, produced by the consul-general of Spain for the district of New York, in the United States of America, and that I was attended at the same time by Sidney Webster, esq., counselor at law in the said city, representing the aforesaid consul-general of Spain, and George Bliss, esq., attorney of the United States for the southern district of New York, attending by the direction of the Secretary of State of the United States, and that the aforesaid witness, having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth, in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me, according to the laws of the United States, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose in my presence as follows, that is to say:

1. Question. Have you been previously examined in this case?—Answer. Yes, sir.

2. Q. Captain Smith, who was in command of the *Virginus* subsequent to yourself, has testified that when he assumed command of her at Puerto Cabello he found, attached to the certificate of registry deposited with the United States consul at that place, a bottomry-bond, which he believes was signed by you at Aspinwall while captain of her; do you remember any such bond?—A. Yes; I signed a bottomry-bond in Aspinwall.

3. Q. For what was that bond given, and to whom?—A. The bond was given for the purpose of paying the debts of the ship, and was given to Mahl & Brothers of Aspinwall and Curaçoa.

4. Q. By whose direction, if any one's, did you sign and give the bond?—A. Manuel Quesada—by his direction.

5. Q. Who were Mahl & Brothers; what was their business?—A. Ship-chandlers and provision merchants, and were the recognized agents of Quesada, and the Cubans generally, in Aspinwall and Curaçoa.

6. Q. Did you, of your own knowledge, know for what repairs or other bills this bottomry-bond was given?—A. I know it was given for the expenses of the ship the time she had been in Aspinwall.

7. Q. State, if you know, what amount of bills the *Virginius* incurred while in Aspinwall.—A. That I can't say. I cannot tell the amount of her bills; I know nothing about them. I signed no bills myself, and paid no bills at all.

8. Q. About what time was this bottomry-bond given?—A. It was given two or three days before the ship sailed. It was in the end of April or beginning of May, 1872.

9. Q. Do you know any large bills for repairs which the *Virginius* incurred at Aspinwall, and, if so, to whom?—A. The largest bill that I know was incurred was to the Panama Railroad Company.

10. Q. For about how much?—A. Between two and three thousand dollars; I think it was \$2,800. I would not be positive.

11. Q. Who, if any one, directed you to sign this bottomry-bond?—A. Manuel Quesada.

12. Q. What was the amount of it?—A. I think it was \$13,600. It may have been \$13,500. It was over \$13,000 any way.

13. Q. Do you remember when and where it was payable?—A. I do not, but think it was payable at Puerto Cabello.

14. Q. Did you ever make any communication with John F. Patterson in respect to this bottomry-bond?—A. Not till after I had returned to New York.

15. Q. What did he say about it?—A. I don't know that he said anything about it, in particular; it appeared to be a thing that did not interest him at all. He sent for me one day—wanted to see me about the *Virginius*; and as soon as I called he says, "Bowen, I heard you were appointed to that ship; I thought you would do something with it, a man like you." I told him that I had no control over the ship at all.

16. Q. Where did you call?—A. On him at his office, on the corner of West and Warren streets, in the city of New York. He was joking me about having made a mistake with the *Virginius*—that he thought when he heard I had charge of it I would certainly do something with it. I told him it was impossible where money was lacking, and that I did not have credit enough for a keg of white lead, and that, therefore, I couldn't handle the ship at all.

17. Q. Was it at this time you told him about the bottomry-bond?—A. I told him about it; I said that from the very fact that two days before leaving Aspinwall I had to sign a bottomry-bond for \$13,600, (I think it was \$13,600,) for this vessel, "How do you suppose that I could do anything with the steamer under such circumstances?"

18. Q. That did not refer to the bottomry-bond, but to the steamer?—A. Yes, to the steamer.

19. Q. Do you know anything of the payment of this bottomry by anybody?—A. I know that the British consul in Puerto Cabello (who was appointed agent by the brother of Mahl in Aspinwall, one of the firm, to receive this money) told me that he had received \$5,000 of this money.

20. Q. Six thousand dollars on the bond?—A. Six thousand dollars on the bond.

21. Q. In Puerto Cabello?—A. In Puerto Cabello.

22. Q. Where were you when the English consul made this statement?—A. In his own office.

23. Q. In Puerto Cabello?—A. Yes.

24. Q. Do you remember his name?—A. No, I do not remember his name; it was a curious name, too; if I heard it I would recollect; it was an Irish name, I think.

25. Q. Fix the time, the date of this conversation, as nearly as you can.—A. The end of May or beginning of June.

26. Q. 1872?—A. 1872.

27. Q. In signing or executing this bottomry-bond on the *Virginius*, state whether you exercised your own judgment and discretion as her master, or whether you acted under the direction of some one else, and, if so, whom?—A. I acted entirely under the direction of Manuel Quesada.

28. Q. You mean you didn't exercise any judgment?—A. Of course, I exercised no judgment; I could gain nothing by doing a thing like that. It was necessary for me to get that ship away from the port, and she could not have left the port without paying her bills, and the only way to do it was through signing this bottomry-bond. My reason was simply this: that if I had left the *Virginius* where she was—watched by the Spanish cruiser Pizarro, the Pizarro threatening to sink her—the people might have thought I was afraid of getting shot. At any rate, under the circumstances, I couldn't think of leaving the ship at that time, though really I would have been glad, very glad, to have done so; not on account of the Pizarro, but on account of their not having any money to pay me.

29. Q. So that you signed this bond after consultation with Quesada?—A. I signed this bond through the orders of Quesada, as he was the person that employed me, and I took my orders from him and nobody else.

Cross-examined by Mr. Tremain :

32. Q. When did you first see Mahl Brothers ?—A. The first time I met them was in Aspinwall, when I joined that ship.

33. Q. And that was when ?—A. That was in the end of March, 1872.

34. Q. On what business ?—A. To order stores for the ship.

35. Q. What was their business ?—A. Ship-chandlers and provision-merchants.

36. Q. At Aspinwall ?—A. At Aspinwall.

37. Q. What was the entire amount of the indebtedness incurred on account of the ship to Messrs. Mahl Brothers up to the time you left Aspinwall ?—A. I could only say so far as the amount of the bond—the bottomry-bond—was concerned. That is supposed to cover everything.

38. Q. So that as far as you know the amount was about the amount of the bottomry-bond ?—A. About \$13,600, the amount of the bond.

39. Q. What conversation, and when, and with whom did you first have in regard to the bottomry-bond and its execution ?—A. The first conversation that I ever had was with General Quesada, and it was only a few days before the ship sailed. I knew before that the ship would be detained on account of her debts there. The bills were deposited in the consul's office, but I had no idea of the amount of her indebtedness until I signed this bond. Quesada told me it would be necessary for me to sign a bottomry-bond to get the ship away. I told him I would do it when the bottomry-bond was made out. I signed the bottomry-bond in the consul's office afterward.

40. Q. Which consul ?—A. The American consul in Aspinwall, Mr. Perry. The bottomry-bond was given about three or four weeks after I joined the ship. I first joined her at Aspinwall in about March, 1872. I think it was payable in Puerto Cabello, but don't recollect how long it was to run.

41. Q. What do you know about its payment ?—A. I only know what the English consul in Puerto Cabello told me, about that \$6,000; and that was that Quesada had already paid \$6,000 to the English consul for the account of Mahl, at Curaçoa.

42. Q. When was it that the English consul told you ?—A. He told me this after I had left the ship and had been to Caracas and returned; this was in the latter part of the month of July, 1872.

43. Q. Was the ship there then ?—A. The ship was there then.

44. Q. Captain Smith was then in command ?—A. Yes. She was without any captain at all for several weeks.

45. Q. I mean at that time ?—A. At that time he was.

46. Q. When did you next hear anything of the bond ?—A. I have not heard anything of it, except what I talked to Mr. Patterson about it in New York.

47. Q. What was the message you received from Mr. Patterson ?—A. The message I received was that he wished to see me.

48. Q. A verbal message to that effect, that is all ?—A. Mr. Roberts told me.

49. Q. State all that occurred at that interview as nearly as you can recollect it.—A. Well, there was nothing, no particular business, occurred between us. It was more of a friendly talk than anything else. I told him about this bottomry-bond, however, which he knew nothing about up to that time; never heard of it.

50. Q. Did he demur to it or make any objections about it ?—A. No.

51. Q. And when was that; about when ?—A. October, 1872.

52. Q. What was the vessel worth when this bond was given ?—A. Well, I am not a judge of prices.

53. Q. Anywhere near it ?—A. She was worth her price in old iron; that was about all. I would not have taken her for a gift to have taken her anywhere.

54. Q. Can you give me a fair estimate of the value of the ship when you joined her, or when you left her; or about that time ?—A. When I joined her she was not worth as much as when I left her, hardly. I can't give any estimate; it depends entirely on what part of the world the ship would be what her value was.

FR'S BOWEN.

Subscribed and sworn to before me this 5th day of December, 1873.

JOSEPH GUTTMAN, JR.,

United States Commissioner, Southern District of New York.

And now I, Joseph Guttman, jr., a duly appointed commissioner of the United States circuit court for the southern district of New York, in attestation, do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witness, and were in my presence signed by him, and in attestation of the verity and solemnity of all of the foregoing I do hereby attach my signature and seal of office this sixth day of December, in the year one thousand eight hundred and seventy-three.

[SEAL.]

JOSEPH GUTTMAN, JR.,

United States Commissioner, Southern District of New York.

[Inclosure 7.]

Deposition of Charles Smith.

UNITED STATES OF AMERICA,
Southern District of New York, ss :

To all to whom these presents shall come :

I, Joseph Guttman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting :

Know ye, that on the third day of December, in the year of our Lord one thousand eight hundred and seventy-three, before me, at my office, No. 29 Nassau street, in the city of New York, appeared as a witness Capt. Charles Smith, a mariner, formerly on board the steamship *Virginus*, produced by the consul-general of Spain for the district of New York, in the United States of America; and that I was attended at the same time by Sidney Webster, esq., counselor at law in said city, representing the aforesaid consul-general of Spain, and by Mr. Tremain, assistant district attorney of the United States for the southern district of New York, attending by the direction of the Secretary of State of the United States; and that the aforesaid witness, having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth, in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me according to the laws of the United States, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose in my presence as follows, that is to say :

1. Question. What is your age, occupation, and place of birth?—Answer. My age is 45; occupation, ship-master; place of birth, Troy, N. Y.

2. Q. For how many years have you been a ship-master, and of what vessel are you now master?—A. I have been a ship-master about ten years, and I am master of the steamship *Mediator* at the present time, running between New York and Norfolk, Va.

3. Q. When did you arrive in this port in the *Mediator*, and when do you sail?—A. I arrived Monday morning, and sail this evening between 4 and 5 o'clock.

4. Q. Did you ever command the steamship *Virginus*; and, if so, when did you assume command and where, and when and where did you give up your command?—A. I took command of her some time in June, 1872, either before or shortly after the middle of June, at Puerto Cabello; and I gave up command of her at Maracaibo in November—I think it was November 15, 1872.

5. Q. Who, if you know, was in command of the *Virginus* immediately before you?—A. Captain Bowen.

6. Q. How did you happen to be in Puerto Cabello and to take command of the *Virginus*?—A. I went to Laguayra first as mate of a brig from Philadelphia, and from Laguayra I went to Puerto Cabello, and there I heard that this steamer was there, and that she was without a master, and I applied for the situation and got it.

7. Q. To whom did you first apply, and with whom did you contract to become her master?—A. I first applied to Alfaro; I think his first name is Pedro. When I first saw Alfaro, General Manuel Quesada was with him, and I considered Alfaro as a sort of business agent of Quesada and of the ship. There was a consultation held then about the matter between Quesada and Alfaro, and Alfaro turned around to me and says he, "Captain, the general wishes you to call to-morrow, at half-past 8;" so at half-past 8 I called. I did not find Alfaro there at that time, but Quesada handed me a letter, and asked me to take it to Alfaro on board the ship. I took the letter on board, and Alfaro opened it and read it, and then he stated his terms to me and asked if I would accept them, and I did, and joined the ship immediately and took command.

8. Q. Please state what those terms were.—A. He was to give me \$200 a month, and extra pay if we did any extraordinary work. To land an expedition I was to have extra pay. The way they put it to me, I considered that I was to have about \$5,000 extra pay. The words were said in this way: "If you run in an expedition it will be as good as \$5,000 to you, besides your pay."

9. Q. Expedition to what place?—A. To Cuba. Of course they did not tell me that the first day, but it was all understood.

10. Q. When you took command of the *Virginus* did you find any ship's papers on board; and, if so, what papers?—A. I found nothing on board but the log-book, and that was not written up; but I did find the papers at the consul's.

11. Q. Describe, as correctly as you can, what papers belonging to the ship you found at the American consulate in Puerto Cabello.—A. As near as I can recollect I found a certificate of registry with no official number marked on it, and no crew-list. I found a bottomry-bond attached to the papers for about \$10,500, American gold, purporting to have been given at Aspinwall by Captain Bowen.

12. Q. Describe what flags, if any, you found on board the *Virginus* when you took command.—A. I found an old Venezuelan flag and an old American ensign.

13. Q. Any of any other description?—A. No, sir, I did not find them at that time; they were on board of her, though, but I did not find them then. A few days afterward I was shown three Cuban flags on board.

14. Q. Do you know where and when that American ensign was procured?—A. Yes, sir, at Aspinwall; it was bought for \$25.

15. Q. How long before?—A. I could not tell the exact time; it was probably two months at least, and may-be three months.

16. Q. When you took command of the *Virginus* what officers of the ship did you find aboard?—A. I found no officer there except one man who was acting as mate; I don't know his name; he only stayed three days.

17. Q. Was there any crew on board?—A. Yes, sir; there were two English sailors, one Cuban oiler, one Cuban engineer, and one American engineer, (Knight,) one English oiler, one Cuban steward, and a Cuban as a purser, and Alfaro was there—I don't know whether you would count him as one of the crew or not—and a cook, a Venezuelan, and two Venezuelan boys; that was all.

18. Q. Were any officers engaged by the ship in Puerto Cabello before you sailed from there?—A. No; I had no officers.

19. Q. Was any crew shipped at Puerto Cabello after you took command?—A. Yes, sir.

20. Q. How many, and of what nationality?—A. I shipped all hands there to make up a ship's company. I cannot tell the exact number, but I shipped in the neighborhood of eight deck-hands, I think; and I suppose I shipped twelve firemen and coal-passers altogether. I probably shipped in the neighborhood of twenty-five, all told. They were all Venezuelans or Curaçoa men.

21. Q. Did they sign articles; and, if so, what was the voyage?—A. I made out the articles, and I recollect exactly what I made out: "To Curaçoa or any port in the West Indies, for a period not exceeding four months."

22. Q. Were the articles signed before the American consul?—A. Yes, sir; the principal part of them; the most of the crew signed on board.

23. Q. Do you remember the name of the American consul at Puerto Cabello at that time?—A. I cannot recollect his name; he was a doctor by profession.

24. Q. Did you have any conversation with the American consul at Puerto Cabello in regard to the character of the *Virginus* and her business?—A. Yes; very often.

25. Q. Please state, as near as you can remember, what he said to you about it?—A. I often had the old doctor tell me, up in the club-house: "Captain, I know very well that the *Virginus* ain't no business to my protection, but I can't help but protect her; I don't know what to do;" and when a man-of-war would come in he would try to throw the *Virginus* off on her.

26. Q. Did he make any objection or obstacle to the shipping of the crew on her before himself?—A. No, sir; he never made any objection.

27. Q. Were you present at any interview between Alfaro and the American consul in respect to the *Virginus*?—A. Yes, sir; I was present at a great many interviews they had in respect to the *Virginus* quite a number of times. I objected to their talking Spanish once or twice, but still it was always done.

28. Q. Do you speak or understand Spanish?—A. No, sir; very little.

29. Q. When you sailed from Puerto Cabello had you any cargo on board?—A. No, sir.

30. Q. Had you any passengers?—A. None but General Quesada and Alfaro.

31. Q. Whom, at Puerto Cabello, did you consider the owner of the *Virginus*?—A. I always considered that Alfaro was the owner.

32. Q. Did you ever have any instructions or communication from Patterson into the *Virginus*?—A. I never had a word.

33. Q. When you cleared from Puerto Cabello did you go to the custom-house yourself?—A. No, sir.

34. Q. Who did clear her at the custom-house?—A. Alfaro.

35. Q. When you sailed from Puerto Cabello what were your orders as captain?—A. When I sailed from Puerto Cabello I did not have any idea just before I sailed that Quesada was going along with me, and when I was ready I was on the wheel-house, and I told Alfaro to tell the general that if he was ready to go ashore he had better go; and Alfaro says to me, "The general says if you are ready to go, go, and shape your course for St. Thomas." Says I, "We ain't got fuel enough to go to St. Thomas, but, damn it, let her go. Obey orders or break owners;" and I started.

36. Q. Did you lay your course for St. Thomas?—A. Yes, I laid my course what would be the proper course for St. Thomas. I stayed on the wheel-house quite a while, and the Spanish man-of-war got away right after me. I went down off the wheel-house after I got out of the harbor. I went aft, where General Quesada was sitting, and he says to me, "Captain, come here, I want to speak to you." He says, "I will tell you where I want to go now. I want to go to Maracaibo." He also stated, "Pulgar is a friend of mine, and I will get plenty of money there."

37. Q. Did you go to Maracaibo?—A. Yes.

38. Q. Were you followed out of the harbor of Puerto Cabello by a Spanish man-of-war?—A. Yes.
39. Q. For how long a time?—A. Well, I could see him for about three hours.
40. Q. Did you out sail the cruiser?—A. Yes, sir.
41. Q. How did the consul at Puerto Cabello know that you were an American citizen?—A. He asked me if I was an American citizen, and I told him "yes." I said, "I have a United States Government certificate."
42. Q. Did you take any oath before him of citizenship?—A. No, sir.
43. Q. Do I understand you that when the *Virginus* sailed from Puerto Cabello the only two American citizens on board were yourself and Knight, the second engineer?—A. Yes, sir.
44. Q. As from what country were the Cubans on board put on the shipping-articles?—A. Most of them from Mexico.
45. Q. Was the *Virginus* advertised for sale at Puerto Cabello?—A. Yes, sir.
46. Q. In what paper, if any?—A. I cannot tell the name of the paper. It was in the regular paper. I think there was but one paper there.
47. Q. Was she advertised to be sold at auction?—A. Yes, sir.
48. Q. Was she sold at auction?—A. Yes, sir.
49. Q. Were you present at the sale?—A. Yes.
50. Q. Was she knocked down and bid in?—A. Yes.
51. Q. For what price?—A. Seventeen thousand five hundred dollars.
52. Q. To whom, and by whom?—A. She was bid by proxy by Alfaro for an Englishman by the name of Bayley. The auction was in the cabin of the *Virginus*, and we were all sitting around the table. Alfaro said he had a telegraph to bid \$17,500 for Bayley, of Caracas, an English civil engineer, I believe.
53. Q. Did the United States consul know anything of this sale?—A. He was present at the sale.
54. Q. Had the *Virginus* been appraised previously to this?—A. Yes.
55. Q. By whom?—A. By regularly-appointed appraisers from the shore.
56. Q. Who appointed them?—A. I was the man to appoint them, but they were appointed by Alfaro. I signed the documents. It was mere matter of form for me, for it was all in Spanish. I had to appoint two, and they had to appoint one. The appraisement was by a carpenter and an engineer, and I don't know what the other was. There were three of them.
57. Q. At what sum did they appraise her?—A. Eighteen thousand dollars—hull and engines.
58. Q. For what was the *Virginus* sold?—A. Under the bottomry-bond.
59. Q. Do you know whether there were any proceedings before a judicial officer in Puerto Cabello?—A. Yes, there were.
60. Q. After the sale did the English consul at Puerto Cabello say anything to you in respect to it; and, if so, what?—A. Yes; the English consul met me the next day after the sale, I think, but I am not certain about dates; it was shortly after the sale. He said to me, "You are going to hoist the English flag." He said, "I have a telegram from the English minister at Caracas to seize her for a pirate if she hoists the English flag."
61. Q. Did you report this to Alfaro; and, if so, what did he say?—A. I reported it to Alfaro, and he said, "Never mind; we are not going to hoist the English flag."
62. Q. Had you, previous to this sale and about this time, been making an English flag; and, if so, by whose order?—A. I was making an English flag by order of Alfaro actually before the sale, and, when he heard about this, he said, "Never mind about the English flag." I got the English flag as far done as the union, and we used the union afterward as a signal at the main.
63. Q. Did you have any conversation with the American consul subsequently about the sale?—A. Yes.
64. Q. What did he say?—A. He told me the ship was sold; and, said he, "Captain, I will have to take your register and cut it in two, send one-half to the Department at Washington and give you the other half." He also said to me, "Captain, don't hoist the American flag again." The money for the purchase was to be paid in three days, and I asked the American consul if I had a right to hoist the American flag before that time was up, and he said, "No."
65. Q. Was the money paid?—A. No, sir.
66. Q. Do you know why it was not paid?—A. Yes, sir; because they did not want her to go under the English flag.
67. Q. Did you go with Alfaro before a court at Puerto Cabello, and sign any papers there in respect to the non-payment of the money and the sale?—A. Yes, sir.
68. Q. Do you know what the papers were?—A. No, sir. Alfaro told me they were papers declaring the sale null and void.
69. Q. Did you go before the American consul in respect to declaring the sale null and void?—A. Yes, sir.
70. Q. What did the American consul say, if anything, in respect to it?—A. I could

not exactly recollect what he did say, but I know he made some remarks with reference to getting rid of the ship; he said he did not know what to do about it hardly; he said he had hoped he had got rid of the ship.

71. Q. After this did Alfaro, at Puerto Cabello, suggest to you that you go on a trial-trip with the *Virginius*?—A. Yes, sir.

72. Q. Did you apply to the American consul at Puerto Cabello for the ship's papers to go on this trial-trip; and, if so, what did he say to you?—A. Yes, sir; I applied, but he refused to give them to me.

73. Q. Did he assign any reason?—A. I said to him, "It is only for a trial-trip," and then he made use of the expression, "Yes, the *Alabama* went on a trial-trip."

74. Q. Do you know whether, at that time, he consulted with Captain Renshaw, in command of the American war-vessel *Canandaigua*, which was lying then in Puerto Cabello?—A. Yes, sir; I know he consulted with Captain Renshaw, for it was done in my presence.

75. Q. Did you hear the advice which he gave to the consul; if so, what was it?—A. Not to let her go on a trial-trip. Then Captain Renshaw turned around to me, and said, "You shan't go out on a trial-trip; but if you want to go to Key West, I will take you to Key West; if you go out you will excite these Spanish people"—meaning the Spanish man-of-war lying there. Captain Renshaw also made the remark, "I know the ship is not entitled to American protection, but I will protect you if you go out to Key West, but you shan't go out on a trial-trip."

76. Q. All this happened after the auction of which you have just spoken?—A. Yes, sir; that was after the auction, I am confident.

77. Q. About what date was this, as near as you can give it?—A. I think it was somewhere between the 20th and 26th of July, 1872.

78. Q. About what date did you leave Puerto Cabello for Maracaibo?—A. August 7, 1872.

79. Q. After leaving Puerto Cabello, and you got clear of the Spanish man-of-war, did Alfaro make any statements to you in respect to what might be done with the *Virginius*?—A. Yes, sir; he made the statement, as coming from General Quesada, that they would like to arm the ship—put guns on board of her.

80. Q. Did he say anything about having commissions on board?—A. He also told me that he had blank commissions on board to be filled up, and offered me a commander's position in the Cuban navy.

81. Q. I understand you that Chamberlain was on board the *Virginius* as chief engineer?—A. Yes, sir.

82. Q. Did he wear any uniform; and, if so, what was it?—A. He wore what they call a Cuban uniform generally in port, and when he was off duty out at sea.

83. Q. On the voyage from Puerto Cabello to Maracaibo, how many flags did you have on board, and of what nationality?—A. We had six Cuban flags, one American flag, and one Venezuelan.

84. Q. When you speak of a Cuban flag, do you mean the Spanish flag, or the flag of the insurrection?—A. What they call the Cuban flag—I mean the Cuban flag, the one of the insurgents; it was their flag; it is a flag composed of one star with a blue ground, and red and white stripes on it; I forget how many.

85. Q. On the voyage did you fly the Venezuelan flag?—A. No, sir; flew the Venezuelan flag at the fore when going into or out of port.

86. Q. Did you fly the American flag with it?—A. Yes, sir.

87. Q. Where did you fly that?—A. At the flag-staff over the stern.

88. Q. Then the Venezuelan flag was at the fore, and the American flag on the flag-staff over the stern?—A. Yes, sir.

89. Q. Was this the condition of the flags when she left Puerto Cabello?—A. Yes, sir.

90. Q. And when you entered at Maracaibo?—A. Yes, sir. Come to recollect now, we had another flag aboard that I knew nothing about. It was a private signal between Quesada and General Pulgar, and when that flag was hoisted at the fore it meant that General Quesada was on board the *Virginius*. It was a large white flag with a black ball in it; it was a very large flag, and that I hoisted at the fore when going past the fort at San Carlos.

91. Q. Where was the *Virginius* lying on the 10th of October, 1872?—A. She was lying in the harbor of Maracaibo.

92. Q. What flags did you hoist on the *Virginius* that day?—A. During the day we hoisted the American flag at the flag-staff, the Venezuelan flag forward, and a burgee at the main, and at night. There was a party on board that day and a band of music. For a little while they hoisted the Cuban flag at the flag-staff; it was presented to General Quesada by the ladies of Caracas.

93. Q. Was this the anniversary of the insurrection at Yara?—A. I was given to suppose so.

94. Q. On the voyage from Puerto Cabello to Maracaibo, did you have conversations with Quesada and Alfaro in respect to arming the *Virginius*, or making captures; and if so, what was the conversation?—A. Quesada, through Alfaro, told me that if we

got a chance, or, rather, he asked me how I would like to arm the *Virginus* and capture one of the Spanish mail-boats. I didn't say much. At one time I said, "You don't catch me after anything with the crew that I have got here." At one time he told me, said he, "Captain, I will give you a chance with the *Virginus* to go among the Spanish fleet and get away from them again." At the same time he had been complimenting me on the way I had handled the *Virginus*.

95. Q. At what date did you arrive at Maracaibo?—A. On August 11, 1872.

96. Q. Did Pulgar come on board the *Virginus*; and, if so, where?—A. When the *Virginus* first entered at San Carlos he came on board. That is the fort outside.

97. Q. With whom?—A. He had a couple of aids with him. I don't know what they were or what position they held.

98. Q. How did he come on board?—A. In one of our boats. I sent a small boat for him by the orders of Quesada.

99. Q. How long did you remain at Maracaibo in the charge of the *Virginus*?—A. Somewhere in the neighborhood of three months—a little over three months.

100. Q. What day did you leave her?—A. I think on November 15, 1872—somewhere in that neighborhood.

101. Q. Did you make a pleasure-trip with Pulgar and his suite on board on October 10, 1872?—A. Yes, sir.

102. Q. What was done on board the *Virginus* during this trip?—A. I suppose that there were probably on board, besides Pulgar and his suite, about fifteen or twenty ladies and as many gentlemen—somewhere in that neighborhood. We had a band of music, the government band, on board also. We had a dinner. The dinner took place on deck. This excursion started in the afternoon and got back toward 8 or 9 o'clock in the evening. Then we commenced dancing, and kept it up probably till 12 o'clock, and afterward had supper, and they ended it with speeches. The speeches, as nearly as I could understand Spanish, were all for Cuba. Every man that made a speech was for Cuba.

103. When you arrived in Maracaibo, did you deposit the ship's papers with the American consul?—A. Yes.

104. Q. What was his name?—A. Juttings.

105. Q. Did you have any conversation with Juttings about the character of this ship; and, if so, what did he say to you?—A. I had, a few days after I arrived. He said to me, "If I was you I would leave that ship and go away. She is nothing but a pirate, and by and by you will get taken and get your neck stretched," or some such expression as that. He also told me that when the ship was there before, the men came ashore with uniforms on and with side-arms, and that he wrote to the Government at Washington about it, but that the Government had never answered him, and, said he, "What can I do?"

106. Q. When you left the ship at Maracaibo, who assumed command of her as captain?—A. Knight, the second engineer, after I left.

107. Q. After you left Maracaibo and arrived in Philadelphia, did you have any letter from the consul at Maracaibo in respect to the *Virginus*?—A. Yes, sir.

108. Q. Have you that letter?—A. No, sir; I have only got the envelope.

109. Q. What did he say in it to you about the ship?—A. He said that he cleared the *Virginus* for Curaçoa, with Knight for captain; and he also made the remark in the letter, "The Lord only knows where she will go, but I cleared her for Curaçoa." Here is the envelope. I tore up the letter, as there were some private things in it.

110. Q. Have you seen Alfaro since you left the *Virginus* at Maracaibo; and, if so, where?—A. Yes, sir; I saw him in Twenty-third street, New York City, at the house of Ramon Céspedes; I forget the number.

111. Q. What did he say to you about the ship, if anything, after she left Maracaibo?—A. He said to me, "Captain, I had to navigate the ship myself to Curaçoa. We put Knight in command for the purpose of clearing her with the American consul at Maracaibo, but I had to navigate the ship myself, and I worked her just the same as you used to show me how."

112. Q. Have you seen General Quesada in New York City since you returned from Maracaibo?—A. Yes, sir.

113. Q. When did you see Alfaro?—A. I cannot state the date, but I think it was somewhere in the neighborhood of about four months ago. I saw Quesada at the same time. Once I saw him at the same house as Alfaro; twice I saw him at No. 33 Thirty-third street.

114. Q. During the time you were in command of the *Virginus*, had she any number indorsed on her papers?—A. No, sir.

115. Q. Had she any number marked on her main beam?—A. No, sir.

116. Q. Did you ever make any reports to Patterson, either verbally or in writing, in respect to the *Virginus*?—A. No, sir.

117. Q. Have you ever had any conversations with Alfaro in respect to Patterson?—A. Yes, sir.

118. Q. In respect to the ownership of the *Virginus*?—A. Yes, sir.

119. Q. What did Alfaro say to you in respect of Patterson's ownership?—A. Alfaro one day—don't know when it was, or how the conversation came about, but I recollect it quite well; he said that Patterson did not own a dollar of the ship, and also said that the ship should never go to the United States again. He did not say it exactly in those words. He said something else about how they got him to go on the papers, but I cannot tell exactly what it was. It was about the time of this sale, and about what they were going to do about it.

120. Q. Did you have any correspondence at Puerto Cabello with the commander, Potter, in respect to the *Virginius*?—A. Yes, sir.

121. Q. Is this (producing a paper) the original of the letter to you, and will you not hand it to the commissioner? (Appended and marked Exhibit A.)—A. Yes, sir.

122. Q. Is this (referring to the paper) the rough draught of the reply you made to him?—A. Yes, sir. (Appended and marked Exhibit B.)

123. Q. Who paid you your wages?—A. Alfaro; all that I got.

123. Q. During the time that you commanded the *Virginius*, whom did you consider to be her owners?—A. I considered General Quesada and Alfaro as her owners. I had every reason to suppose that they were the owners. I recognized nobody else as the owners but Alfaro and Quesada.

The district attorney, having been notified by Mr. Webster but a few minutes before the examination took place, was unable to be present, but was represented by his assistant, Mr. Tremain, who interrogated the witness as follows:

124. Q. What is your entire knowledge concerning the bottomry-bond that you have spoken of, and of its origin?—A. My knowledge of it is from seeing it attached to the certificate of the ship in the hands of the American consul at Puerto Cabello, when I first joined the ship as master of her.

125. Q. Have you any knowledge of the consideration of that bond otherwise than that?—A. No, sir; it was made in Aspinwall by another man.

126. Q. What did you hear Alfaro say about that?—A. I have heard Alfaro say in several instances about that bottomry-bond, when I would speak about going to sea, "We will make that bottomry-bond all right." Alfaro took up the bottomry-bond afterward in his own name, giving bonds to pay it at Caracas in six months after date.

127. Q. When was that done?—A. A few days before I sailed for Puerto Cabello. I could not tell you the exact date.

128. Q. Was that done before the American consul?—A. Yes, sir.

129. Q. What did you hear him say about the original bond at that time?—A. I heard him say that the original bond was canceled then. They canceled the original bond, and he took it. It was made out in his name then.

130. Q. He paid no money?—A. Not in my presence.

131. Q. After that was it paid?—A. Never in my presence or to my knowledge.

132. Q. You know nothing about the final cancellation of this second bond?—A. No, sir.

133. Q. When you say you considered Alfaro and Quesada as owners, do you mean that you had any knowledge of any consideration being paid by Quesada for any interest in the vessel?—A. No, sir, I had no knowledge; I merely say that because I was given every reason to suppose they were the owners by their actions, and by the way the business of the ship was carried on.

134. Q. Do you know of any consideration passing from Alfaro to anybody else for any interest in the vessel?—A. I don't.

135. Q. You received all the directions concerning the management of the ship from Alfaro?—A. Yes, sir.

136. Q. When you turned over the ship and its command, what papers did you leave for your successor in command of the ship?—A. I left the certificate of registry and this bottomry-bond of Alfaro's at the consul's. When I left the ship, the papers were on board of the ship, and I deposited them at the consul's. I had got them from the consul's to tow a vessel out to sea—a schooner. That was a temporary employment. When I left the ship I was very sick, and took the papers up to the consul's, and deposited them with him, and told him I was going to leave. I deposited the certificate of registry, and this bottomry-bond of Alfaro's, and the crew-list that I had from Puerto Cabello. I left them all with Mr. Jutting.

137. Q. What flags were on board the vessel at that time?—A. There was one American flag, one Venezuelan flag, and six Cuban flags. I don't know as they were all on board at that time. Quesada had left at that time, and gone to Caracas, and he might have taken one of the Cuban flags with him.

138. Q. When did Alfaro leave the vessel?—A. He never left it while I was in it.

139. Q. When did Quesada leave?—A. He left it with Pulgar somewhere in the neighborhood of October, and went to Caracas with Pulgar and his suite.

140. Q. What did Captain Bowen say to you concerning the *Virginius* at or about that time?—A. I had no conversation with him about the *Virginius* one way or the other, except about her capabilities. He said she was a rotten, poor thing, that could not cross a mill-pond.

141. Q. What did you say when you were offered a Cuban commission by Alfaro?—A. I said I would think of it. I passed it off some way or other; but I can't tell you exactly what I said.

142. Q. What did you give him to understand?—A. I don't know just whether I gave him to understand that I would not accept of it; but I did not intend to accept of it, and I guess I gave him to understand that I would not accept of it under those circumstances, any way.

143. Q. When was the first time that you ever heard of Mr. Patterson in connection with the Virginus?—A. When I first saw her papers I saw his name.

144. Q. Did you ask anything about him?—A. I did not ask much about him at that time; but afterward I asked Alfaro about him.

145. Q. What did he say?—A. Well, very often he would try to pass it off in a laughing way; he would say, "Patterson is all right," or something like that. I heard him say once, "Patterson has got his price; we don't want anything more to do with him," or something to that effect. He would generally bring the conversation out in some such way as that.

146. Q. You never had any other information concerning Patterson's connection with the ship than what Alfaro gave you?—A. That was the only information I had.

147. Q. You are an American citizen?—A. Yes, sir.

148. Q. Did you ever have any written orders while you were in command of the Virginus?—A. No, sir; I never had a written order.

149. Q. Did you ever make any other trip in her except from Puerto Cabello to Maracaibo?—A. No, sir.

150. Q. How long had you been in command of her before you were aware that there were judicial proceedings pending or to be instituted?—A. It was a very short time after I got command of her.

151. Q. What did you hear?—A. Well, at one time Alfaro said, "If we could only sell her to the Spaniards! Why don't they buy her?" We were blockaded by the Spaniards, you know, while we were lying there, and he says to me, "If the Spaniards give \$50,000 for her, we will sell her and go to Europe and get another one."

152. Q. Were there efforts made at that port to sell the vessel?—A. There were no efforts made until at or about the time of the sale; that is, not to my knowledge. I know Alfaro told me, either once or twice, that Guzman Blanco would buy her if he had the money, but he had not the money. Guzman Blanco was the President of Venezuela. They wanted from him about \$60,000 of their money; that is somewhere in the neighborhood of \$50,000 American gold. Alfaro said they would sell the vessel to Guzman Blanco if he had the money to pay for her.

153. Q. What were those judicial proceedings?—A. The proceedings were these: the sale was for the bottomry-bond. They had to advertise so many days in the papers for proposals for this money, and of course that was not forthcoming, and then the ship was to be appraised, and according to law a ship cannot be sold for anything more than she is appraised for, because it would not be a *bona-fide* sale, and the only bid was \$17,500.

154. Q. Who appointed the appraisers?—A. Well, I was considered to, but Alfaro did.

155. Q. What do you know about the consideration for that bottomry-bond?—A. I know nothing about the bond except that I saw it attached to the certificate of registry at the consul's. I think it was signed by Captain Bowen, but I am not certain. I don't know what the consideration for it was, nor do I remember, if I ever knew, to whom the bond was originally given. There were no other parties represented, at the time of the sale, in the cabin of the Virginus, except the judge, the auctioneer, Alfaro, the American consul, and myself; I think that was all, except this Cuban who was acting as purser. I saw no money pass.

156. Q. Do you think there was a cancellation of this first bottomry-bond and a new bond given, or was the bond assigned over to Alfaro?—A. I gave, as captain, a new bottomry-bond to Alfaro for the amount of the old bond, which was about \$10,000, and with that the consul canceled and Alfaro took up the old bond given at Aspinwall, but there was no money passed, and the bottomry-bond I gave was to be paid at Caracas six months after date.

157. Q. Do you know where this ship was when this bond became due—the one you gave?—A. I don't know where she was when it became due. She was nowhere near Caracas, however. When I said that there were two judges who declined to order the sale, I spoke only from general information. I was not accurately acquainted with all the steps in the judicial proceedings or with the special action of those two judges, otherwise than I have stated. I got all my information from Alfaro.

158. Q. Who was it that wanted this vessel to go on a trial-trip?—A. Alfaro.

159. Q. Was that after you had completed your repairs and were ready to go?—A. Yes.

160. Q. Was the Spanish man-of-war still in the harbor?—A. Yes; it was either the Pizzaro or the Del Blanco, or some such name. It was the same vessel that chased me and I outsailed her.

161. Q. How many war-vessels were there while you were in Puerto Cabello?—A. Two were there during the time I was there, the Shawmut and the Canandaigua. The Shawmut had been lying there some three or four weeks then.

162. Q. When you first took command of this vessel was there, to your knowledge, anything unusual or irregular in the papers of the ship?—A. The only thing unusual in the papers of the ship was that she had no official number; I guess that was about the only thing unusual. I refer to the official number on top of the register.

163. Q. Have you not known that to be omitted, sometimes, in a ship's register?—A. Not for any length of time.

164. Q. When you arrived at Maracaibo, did you pursue the usual course as to reporting to the American consul or leaving with him any papers?—A. Yes, sir; I pursued the usual course with him, but not at the custom-house. I did not enter at the custom-house. Any other vessel that came in had to go and deposit the papers at the custom-house, and then the American consul would go and get them.

165. Q. But you pursued the usual course so far as the American consul was concerned?—A. Yes, sir.

166. Q. What papers did you deliver to him?—A. I delivered to him the certificate of registry, the bottomry-bond, and the crew-list.

167. Q. What did the consul at Puerto Cabello say to you concerning the *Virginus* being entitled to official protection?—A. I have heard him express doubts whether she was entitled to any American protection at all. He did not believe that she was entitled to it, but he did not know how to get rid of it. He worked more under the orders of the United States minister than of anybody else. The Maracaibo consul could not work under him, because it would take six or seven hours to get communication.

168. Q. Did the consul at Puerto Cabello tell you that he did not know what else he could do?—A. He told me that he did not actually believe that the *Virginus* was entitled to protection. The old man felt very much relieved when she was sold at auction, for he thought he was going to get rid of her. He said that he was going to cut the register in two, and give me half, and send one half to the Department at Washington.

169. Q. What did the consul at Maracaibo say to you about her?—A. He said to me, "Why don't you get rid of that *darned* pirate? She is nothing but a pirate, and you will get caught by and by, and they will hang you, and I want to see you off, any how, though I do not care for any of the rest." Juttings did not believe that she was entitled to protection at all. There were only one or two American citizens on board, and he knew that very well.

170. Q. Did either of those officials express any doubt as to her right to their official protection by reason of any irregularity in the ship's papers?—A. No; neither one of them expressed doubt about the regularity; because if they had found the first flaw they would not have protected her.

171. Q. So far as you know, there was nothing to which exception could be taken by either of those gentlemen in the performance of their official duties in that respect?—A. No, sir.

172. Q. Was she armed before you left her?—A. No, she was not what we call an armed ship—that is she was not armed with big guns; although there were rifles enough on board of her to arm the whole crew. There was probably in the neighborhood of 100 or 150 rifles. It was a large quantity of arms for a merchant-ship.

173. Q. When you left her was the American flag flying?—A. No, sir; when I left her we had no flag up. She was then down at the island of Taos. There was a coal mine there.

174. Q. At what time did you arrive at Maracaibo?—A. I think it was the night of August 11.

175. Q. You took no trip in her from that time until you left her?—A. Except to tow this schooner out about eighty miles outside of San Carlos, and the excursion of October 10.

176. Q. When you towed the schooner out did you make any clearance?—A. I went to the consul and got my papers. I made no clearance from the custom-house.

177. Q. Did you get a clearance at that time for a voyage from any port?—A. No clearance from any port. I simply got my papers, and towed this vessel out and returned.

178. Q. Was there any Spanish man-of-war about?—A. No, sir.

179. Q. When was that?—A. I cannot give the exact date. It was after the excursion—some time in October, I think.

180. Q. Why did you finally leave?—A. On account of my ill health.

181. Q. Do you know of any other matter or thing concerning the *Virginus* or her character, that you have not stated?—A. No, sir; not that I know of.

CHARLES SMITH.

Subscribed and sworn to before me this 3d day of December, 1873.

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District of New York.

And now I, Joseph Gutman, jr., a duly appointed commissioner of the United States circuit court for the southern district of New York, in attestation, do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witness and were in my presence signed by him; and in attestation of the verity and solemnity of all of the foregoing, I do hereby attach my signature and seal of office, this third day of December, in the year one thousand eight hundred and seventy-three.

[L. S.]

JOSEPH GUTMAN, JR.,
United States Commissioner, Southern District of New York.

EXHIBIT A.

UNITED STATES STEAMER SHAWMUT, (4th rate),
Off Puerto Cabello, Venezuela, South America, June 26, 1872.

SIR: Will you be good enough to inform me, if you can, when the *Virginus* will be ready to proceed to sea? Not only when her repairs will be completed and stores supplied, but when her indebtedness will be so settled that she will be clear.

Very respectfully, your obedient servant,

EDWD G. POTTER,
Commander Commanding.

CHARLES SMITH, Esq.,
Commanding Steamship Virginus.

EXHIBIT B.

STEAMSHIP VIRGINIUS, *June.*

SIR: Your communication of the 26th instant has been received. In reply to your questions concerning this steamer, I have to state that her repairs and stores, including coal, will be complete between the 1st and 6th of July, 1872. I am unable to answer the question when her indebtedness will be so settled that she will be clear, as that rests altogether with Mr. Alfaro, the holder of the keel-bond, and as he is also providing funds for the disbursements of the ship, of course, he is the proper person to hold her or let her go.

EDWARD E. POTTER, Esq.,
Commander United States Steamship Shawmut.

[Inclosure 8.]

Deposition of Edward Greenwood.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

To all to whom these presents shall come:

I, Joseph Gutman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting:

Know ye, that on the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seventy-three, before me, at my office, No. 29 Nassau street, in the city of New York, appeared as a witness Edward Greenwood, a mariner, formerly on board the steamship *Virginus*, produced by the consul-general of Spain for the district of New York, in the United States of America; and that I was attended at the same time by Sidney Webster, esq., counselor at law in said city, representing the aforesaid consul-general of Spain, and by George Bliss, esq., attorney of the United States for the southern district of New York, attending by the direction of the Secretary of State of the United States; and that the aforesaid witness having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth, in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me, according to the laws of the United States, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose in my presence as follows, that is to say:

1. Question. What is your age, occupation, place of birth, and citizenship?—Answer. I was forty-two years of age the 30th of last March; occupation, engineer.
2. Q. Marine engineer?—A. Marine engineer; yes, sir; birth New York City, and a citizen of the United States.
3. Q. When and where did you first know the steamer *Virginius*?—A. I first knew the steamship as the steamer *Virgin*, lying at the foot of Leroy street, in New York.
4. Q. At what date?—A. I could not give the exact date. I think it was the month of October, 1870.
5. Q. When, if you know, was her name changed from *Virgin* to *Virginius*?—A. Prior to her sailing; a day or two before we sailed, as near as I can recollect.
6. Q. Do you know anything of the circumstances under which it was changed?—A. I do not.
7. Q. In what capacity did you go on the steamer *Virginius* on her voyage from New York, October 4th, 1870?—A. I was first assistant engineer.
8. Q. By whom were you first approached to serve on the *Virginius*?—A. Mr. Marquiz.
9. Q. Who was he?—A. The chief engineer.
10. Q. When and where were you approached by him?—A. In the city of New York.
11. Q. How long before she sailed?—A. I could not tell you the exact time. It was in the neighborhood of two or three weeks.
12. Q. How long were you at work on the steamer before she sailed?—A. Probably a fortnight.
13. Q. Who directed you while you were employed on her before she sailed?—A. Mr. Marquiz.
14. Q. How long previous to that had you known Mr. Marquiz?—A. Probably a year or more.
15. Q. Do you know of your own knowledge whether he was an American citizen?—A. I do not.
16. Q. Do you know whether he was a foreigner by birth?—A. I cannot say.
17. Q. After the *Virginius* left the wharf at New York, and while proceeding down the bay, did you see a party come on board her from a tug-boat?—A. I saw them come on board off the Highlands—it was hardly in the bay—on the high seas, as I termed it.
18. Q. Do you remember the name of the tug from which they came on board?—A. The *Virginia Seymour*.
19. Q. How many were in that party, and what were their names, if you know any of them?—A. One was represented as General Quesada, another was named Mora, and one was pointed out to me by the name of Varona. There were probably ten or fifteen of them altogether. I can't be positive as to the exact number.
20. Q. Of what nationality did they appear to you to be?—A. Cubans.
21. Q. What was the first port the *Virginius* made after leaving New York?—A. Curaçoa.
22. Q. Did you sign shipping-articles in the port of New York before sailing on the *Virginius*?—A. Yes, sir.
23. Q. For what port or place did you sign articles?—A. I would not be positive whether it was Cedar Keys, Havana, or Mobile. It was a general topic of conversation that we were to run between those ports. That was what Marquiz told me when I shipped on the vessel. Cedar Keys, Mobile, and Havana were mentioned, and probably some portion of the Caribbean Sea.
24. Q. Was it ever said to you, or did you understand when you signed the articles, that you were to go to Curaçoa?—A. I was told confidentially by Captain Shepard, prior to our sailing, that we were going to Curaçoa—by Captain Shepard and Mr. Marquiz both.
25. Q. What else did they state to you about the character of the voyage, if anything?—A. Well, prior to taking the ammunition on board, when these Cubans came on board off the *Virginia Seymour*, we got into conversation about it, and I went to Captain Shepard and asked him "Where is this ship going?" Says he, "You know where we are going—going to Curaçoa." Says I, "This looks very suspicious, these men coming on board, each with a revolver hung on him, I ain't accustomed to going on sea in this way." "Oh," says he, "we'll be all right," or "all lovely," or something like that. Says I, "If they capture us we are liable, according to Spanish laws, if I know anything about them, to be shot or garroted, either one." "Oh, no," says he, there won't be anything of that kind even if they do capture you." That was all that occurred until we arrived at Curaçoa.
26. Q. While the steamer was lying at Curaçoa, do you know anything of a schooner which arrived from New York; and, if so, what was her name?—A. Yes; the *Billy Butts*.
27. Q. How long was this after the *Virginius* arrived at Curaçoa?—A. I think we saw it at Curaçoa eight or nine days, as near as I can recollect, before the schooner came in—about that time.
28. Q. What, if anything, did the *Virginius* do with that schooner, the *Billy Butts*?

A. We left Curaçoa along about dusk, and we exercised a great deal of caution in going out between the two forts there.

29. Q. Did the *Virginus* have the schooner in tow?—A. No sir; not at that time. We picked her up in the course of the night, and took her to Buen Ayre.

30. Q. An island?—A. Yes, I think it is an island.

31. Q. What happened next?—A. We took the powder, shot, shell, and ammunition out of her and put it on board the *Virginus*. My firemen turned to at it. The men were promised a dollar an hour in gold, because time was an object in getting this war-material on board. Immediately after getting it on board, the men came forward and wanted to know where the steamer was going. The whole ship's company, I think, came forward, with the exception of the officers. There was considerable chaffering and bickering, and I forget the precise sum they offered, but I think it was \$150 that they offered for each and every time they ran the blockade into the Island of Cuba. That offer was for the men, irrespective of their positions, whether they were firemen, coal-passers, or sailors; and there was some sort of arrangement made by Captain Shepard, through the interpreter, with General Quesada, and he (Quesada) gave a draft on the Bank of England, I understood, for a large amount, to make that arrangement good.

32. Q. Quesada gave a draft?—A. Yes, sir. I did not see the draft given, but the men said he gave it. Then we proceeded to Lagunayra. At Lagunayra Quesada and some of these other Cubans went ashore, and I think they stayed over night; at least the ship lay there over night. I think they went to the hotel there, the Posado Delphino. From Lagunayra the steamer went to Puerto Cabello, and there this ammunition was taken out of the *Virginus*—some portion of it. I think there was some left on board, a small amount, but I won't say positively now.

33. Q. What was done with the cargo taken out of the *Virginus* at Puerto Cabello? A. It was put into the fort—a Venezuelan fort—I think it is called Fort St. Michael's.

34. Q. Was any part of the cargo placed on any other steamer to your knowledge?—A. Yes; on *La Oriental*, a Venezuelan man-of-war, belonging to the party called the *Yellows*.

35. Q. After the cargo was taken out of the *Virginus*, where did she then go?—A. She proceeded from there to Lagunayra and took in some troops there, and we took some beef-cattle on board, on the hoof; and then we proceeded to a place called Cumana, and Barcelona, and put these troops ashore—Venezuelan troops. From Barcelona we went back to Lagunayra and Puerto Cabello.

36. Q. What, if anything, did you have to do with a Venezuelan gunboat at Puerto Cabello?—A. I went on board the *Oriental* at Puerto Cabello; the *Virginus* towed us out of the harbor. I was to superintend the repairs on the Venezuelan gunboat at St. Thomas.

37. Q. By whose request or order did you go on board that gunboat?—A. General Quesada's.

38. Q. In what language did he speak to you; or, if through an interpreter, who was the interpreter?—A. He spoke the Spanish, and the interpreter was named Socarras. I think. On that man-of-war with me there was a man by the name of Varona. He went on board with me. He was not the General Varona reputed to have been shot at Santiago. He was a Cuban.

39. Q. How many guns had that man-of-war?—A. I think she mounted eight guns.

40. Q. About what was her tonnage in American measurement?—A. About 500 or 600 tons.

41. Q. After you went on board of her where did she go, and what did she do?—A. The *Virginus* towed her out of the harbor of Puerto Cabello, and after we had been out some few hours we came across this Mosquito fleet, as I term them, of the *Blues*. They commenced loading the guns on board the vessel I was on, and they fired one shell, and the *Virginus* afterward took them in tow, and towed them to Lagunayra. I proceeded in the *Oriental* to St. Thomas.

42. Q. How many schooners were in that Mosquito fleet?—A. There were five or six, as near as I can recollect.

43. Q. Were they schooner-rigged, and were they armed?—A. I cannot say positively, but I think they were armed. Most of those schooners are armed with one gun amidships.

44. Q. At or about the time the gun was fired from the steamer on which you were, did you see the *Virginus*?—A. Yes, sir.

45. Q. What was she doing?—A. She was lying still.

46. Q. How far from the steamer you were on?—A. Probably three-quarters of a mile.

47. Q. Was it clear weather, and could you see her distinctly?—A. Yes, sir.

48. Q. Did you see what flag she was flying?—A. Yes, sir.

49. Q. Describe it.—A. I saw her flying the American flag, and afterward the Venezuelan flag for a short space of time.

50. Q. Do you know whether General Quesada was on board of her at that time?—A. I was not on board of her myself; but my opinion is that he was on board of her.

51. Q. Did you see the Virginius subsequent to the capture of the Mosquito fleet?—A. Yes; at Puerto Cabello, after I returned from St. Thomas.

52. Q. Had you, previously to that time, seen anything of a Venezuelan flag on the Virginius?—A. The flag was made in her cabin. I did not see them making it, but I was told that it was making in there. A party said that he saw them buy the stuff at Puerto Cabello.

53. Q. Did you ever see any other flag flying from the Virginius besides the flag of the United States and the Venezuelan flag?—A. No, sir.

54. Q. Did you ever see any other flag on any of the small boats belonging to the Virginius?—A. I saw the Cuban flag on one of her quarter-boats.

55. Q. When was this?—A. This was prior to the turning over of the balance of the men-of-war that were in charge of the Blues. They turned over two ships, one called the Guzman Blanco, a side-wheel steamer, formerly called the London, and another one that was built in London for them, a propeller; a very large one. I forget her name. They were turned over to the Yellows.

56. Q. In what port was the Virginius lying at the time you saw the Cuban flag on one of her small boats?—A. Puerto Cabello.

57. Q. Was this before or after the Virginius towed out the Venezuelan man-of-war on which you were?—A. Before.

58. Q. Was it before the Virginius transported the Venezuelan troops along the coast to Barcelona?—A. I think not.

59. Q. Who was in the small boat at the time you saw the Cuban flag?—A. General Quesada, and some other Cubans, one or two, and Ambrose Rowlands, I think, and a man by the name of Miller. They pulled the boat. There was some other one, but I recollect only those two. One of them belonged to me—both, in fact.

60. Q. Did you see the flag on the boat yourself?—A. Yes, sir.

61. Q. Where did the boat go when it had this Cuban flag upon it?—A. They rowed out to a small island or strip of land near by.

62. Q. Did you see the small boat return to the Virginius?—A. I did not.

63. Q. How soon after this did you go on the Venezuelan man-of-war?—A. I cannot tell the exact time.

64. Q. Did you have any interview with any of the consuls of the United States in respect to the Virginius?—A. I did, with Dr. Lacombe, in Puerto Cabello.

65. Q. Did you make any statements to him in respect to the Virginius; and if so, what were they?—A. I related to him the facts of the taking of this ammunition on board from the Billy Butts, and I told him that my opinion was that she was engaged entirely in unlawful trade or traffic. This was prior to the affair with the schooners.

66. Q. What, if anything, did the consul say to you in reply?—A. He gave me but very little satisfaction. The communication we had was altogether verbal. He said she was "all right."

67. Q. Had Captain Shepperd left the Virginius before you left her?—A. Yes, sir.

68. Q. Who then took command of the Virginius as captain?—A. Marguiz was the man who was recognized as the captain. He was the only man that seemed to get clearances for her; so he told me himself. Mr. Camacho was the man that I always considered to be the captain of her.

69. Q. Did you ever see Consul Lacombe and General Quesada together?—A. Yes; I saw them at Puerto Cabello in the Hotel de Commercio. I boarded there quite a while after I left the Virginius.

70. Q. State what you saw or heard at that time, if anything.—A. They spoke in Spanish. I saw Quesada give him, Lacombe, some money, but how much I could not tell, nor for what purpose; but I know it was gold.

71. Q. In whose control did you believe the Virginius to be while you were on board of her?—A. Under the control of the Cubans, after we got on board the cargo from the Billy Butts. After Captain Shepperd left the ship I considered Camacho to be in control of her as the real navigator.

72. Q. What control, if any, did General Quesada appear to you to have over the Virginius?—A. Well, I did not see him assume command at all while I was on the ship.

73. Q. What relation did it appear to you that Quesada had to the Virginius?—A. I considered him as the owner of her.

74. Q. From what things, or act, or deed did you consider him to be the owner?—A. From a conversation that took place on the day that Captain Shepperd left; from remarks that I overheard. If my memory serves me right, Quesada gave Captain Shepperd to understand that he had the papers of that ship, and owned them.

75. Q. In what language was that conversation carried on?—A. The conversation was partly in Spanish and partly in English. I overheard some of it; I was sitting on the rail of the vessel at the time.

76. Q. With whom was Quesada having that conversation?—A. I could not remember the names of all of them; the whole party that went out with us—the Cubans; it was a general conversation.

77. Q. Did you ever see any documents or papers relating to the ownership of the vessel?—A. No, sir.

78. Q. By whom were you discharged from the *Virginus*?—A. I never was discharged, because I never went back to her again after I left her to go on board the Venezuelan gunboat.

79. Q. For what wages did you ship in New York?—A. Eighty dollars a month, I think.

80. Q. Were you ever promised any greater sum as wages?—A. I was told by Mr. Marguiz that if we did run the blockade we would be amply compensated for it.

81. Q. Where, and by whom, were you first paid any wages after you went on board the *Virginus*, and sailed from New York?—A. I was paid by the Cubans, in Puerto Cabello, by Mr. Arredondo, who went out with us on the ship from here. He came on board from the *Virginia Seymour*.

82. Q. Where was it you were paid?—A. In Puerto Cabello.

83. Q. Before you went on board the gunboat, or afterward?—A. Afterward.

84. Q. Did he pay you any portion of your wages earned on the *Virginus*?—A. He paid me the whole. He did not pay me anything for my services on the Venezuelan gunboat, but he did pay me in full for my services on the *Virginus*.

85. Q. At what rate of wages did he pay you?—A. Eighty dollars a month, with 20 per cent. off for gold.

86. Q. Why did he pay you?—A. I asked him for my money. I told him I wanted nothing more to do with the ship at all, and asked him for my money, and he went to Quesada and got the money, and came and handed it to me.

87. Q. Did you see him get the money from General Quesada?—A. He went into his room and returned with the money.

88. Q. How came you to apply to Mr. Arredondo to pay you, rather than to any other one of the Spaniards aboard?—A. From the simple fact that he spoke English.

89. Q. Who paid you for your services on the Venezuelan gunboat?—A. I don't think I ever got anything. I went in the custom-house there with General Oquinda.

90. Q. Where did you go into the custom-house?—A. At Lagunayra; and they were speaking Spanish together; and then they took me before some of their officials there—the Venezuelan officials; then to Caracas, with a *diligence*, the capital of Venezuela. They gave me \$4 or \$5 in gold there. What their talk was I didn't know, because I didn't understand the language.

91. Q. That was all you ever got?—A. That is all.

92. Q. Did you ever endeavor to get any pay for your services there?—A. I asked them, but could not get any.

93. Q. Did you ever ask anybody on board the *Virginus* for your pay?—A. I asked Guzman Blanco.

94. Q. What did he say?—A. He knew nothing about it.

95. Q. Did you ask anybody on board the Venezuelan gunboat?—A. No, sir.

96. Q. Anybody who were described as Cubans?—A. No.

97. Q. Did you get some pay before you sailed?—A. Yes.

98. Q. From whom?—A. I don't know whether it was from I. K. Roberts or Patterson; I don't know which of the two.

99. Q. How much?—A. I don't know how many days I had worked.

100. Q. Who was Patterson?—A. He used to be a purser in Marshall O. Roberts's employ some years ago, but he acted as business man for him. I understood him to be.

101. Q. In connection with this vessel?—A. Yes, sir.

102. Q. You considered him acting for Marshall O. Roberts, did you?—A. For young I. K. Roberts, I believe, sir.

103. Q. You had a conversation with Captain Shepperd after the man came aboard, off the Highlands?—A. Yes, sir.

104. Q. Did you ever have any other conversation with Captain Shepperd, with reference to the *Virginus*, her use or destination?—A. Yes, sir; I had conversation with him a number of times.

105. Q. Can you tell us when they were, and where they were, and what was said in each?—A. O, it was during the voyage, or the cruise, we conversed together. We was very intimate—Captain Shepperd and myself.

106. Q. If you can tell us any specific thing, do so; and if you cannot, say so.—A. Can't tell any specific thing.

107. Q. When Captain Shepperd—he left under a disagreement with the—A. With General Quesada.

108. Q. Did you hear the cause of that disagreement stated?—A. Couldn't say positively about that. I heard a portion of it, as I said before, but the exact words I couldn't say. Captain Shepperd gave me to understand himself that Quesada owned the ship.

109. Q. He didn't tell you that he left because Quesada owned the ship, but for some other reason?—A. He left because they would not tell him where the ship was going. That is the reason he quit. I heard him say that himself.

110. Q. Captain Shepperd, then, did not from the outset expect to go to Cuba?—A. Couldn't tell.

111. Q. Did you not gather so from him?—A. I gathered that he did calculate.

112. Q. Did calculate to go to Cuba?—A. Yes, sir.

113. Q. Did you gather that he left because she expected to go somewhere else afterward?—A. No, sir; Quesada would not give him any information as to where the ship was going—wouldn't give Captain Shepperd. That is the reason he left.

114. Q. Where did Camacho come on board?—A. He went out with us.

115. Q. Came aboard at the Highlands?—A. Yes, sir.

116. Q. You mentioned that General Quesada and others went ashore at Laguayra?—A. At Laguayra.

117. Q. They came back aboard the *Virginus* before she sailed, didn't they?—A. Yes, sir.

118. Q. Did they come with you to Puerto Cabello?—A. I think they did, sir.

119. Q. This Venezuelan gunboat, was it a sailing-vessel or steamer?—A. A steamer.

120. Q. Was it a side-wheel?—A. No; twin screws.

121. Q. At the time the Mosquito fleet was captured did the *Virginus* have any guns mounted on board?—A. Don't think she had.

122. Q. She took no part in the capture more than lying by?—A. No, sir; no more than lying still.

123. Q. There was only a single gun fired from the gunboat?—A. That is all.

124. Q. Then the others surrendered?—A. Yes, sir.

125. Q. Now, this Venezuelan flag, flying on the *Virginus* during that temporary engagement: how long was it up?—A. Well, I don't think it was up more than ten minutes.

126. Q. During that time was there an American flag also flying?—A. I didn't see any.

127. Q. There had been prior to that?—A. I think so.

128. Q. Was the Venezuelan flag hauled down subsequently?—A. Yes; it was hauled down. I saw it when it was run up and when it was hauled down.

129. Q. Then was the American flag run up again?—A. Yes, it was—well, I couldn't be positive about that.

130. Q. Was that during this engagement?—A. Yes; as we fired the shot.

131. Q. What was done as you fired the shot?—A. The Venezuelan flag down on the *Virginus*.

132. Q. As you fired the shot?—A. Yes.

133. Q. When did you first see the *Virginus* after your return to Puerto Cabello; I mean when by the month?—A. I don't recollect the month.

134. Q. Was it 1870 or 1871?—A. I think in 1870; the latter part of 1870.

135. Q. Who told you that the Venezuelan flag was made in the *Virginus's* cabin?—A. Some of the crew; I don't recollect who.

136. Q. When was it that you saw Lacombe and Quesada together, when money was passed from Quesada to Lacombe?—A. Well, I was boarding at the hotel; the month I couldn't give.

137. Q. After your return from St. Thomas?—A. Yes, sir.

138. Q. How much?—A. I couldn't tell you.

139. Q. You could tell whether \$5 or — A. O, it was more than that; it was \$20 gold-pieces; how many of them I couldn't say. Of course I couldn't go up and look.

140. Q. What has been your occupation since that time?—A. Engineering, sir.

141. Q. Where?—A. Running to Savannah—different ports—New Orleans, &c. I have not been to sea recently.

142. Q. Where, if anywhere, are you now employed?—A. Not engaged at present, sir.

143. Q. Where were you last employed?—A. At John Roche's iron-works.

144. Q. How long ago?—A. About two months ago—in that neighborhood.

145. Q. Been out of employment for about two months?—A. Yes.

146. Q. How came you to make this statement here?—A. Well, sir, I done it on this account: I thought the *Virginus* was doing wrong—

147. Q. No matter about that. How came you in communication with anybody?—A. I went to the Spanish consul.

148. Q. Any agreement for compensation with you?—A. No, sir.

149. Q. Any understanding that you would be compensated?—A. No, sir; except I am to be paid for my time.

150. Q. How much time has that been?—A. Well, Saturday—

151. Q. Well, you have been employed in getting these other parties, have you not?—A. Yes, sir.

EDWARD GREENWOOD.

Subscribed and sworn to before me this 26th day of November, 1873.

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District of New York.

And now I, Joseph Gutman, jr., a duly appointed commissioner of the United States circuit court for the southern district of New York, in attestation, do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witness, and were in my presence signed by him; and in attestation of the verity and solemnity of all of the foregoing, I do hereby attach my signature and seal of office this twenty-sixth day of November, in the year one thousand eight hundred and seventy-three.

[SEAL.]

JOSEPH GUTMAN, JR.,
United States Commissioner, Southern District of New York.

[Inclosure 9.]

Affidavit of John McCann and Matthew Murphy.

SOUTHERN DISTRICT OF NEW YORK, ss:

John McCann and Matthew Murphy, being severally duly sworn, depose and say: That they are seamen by business; that about October 3, 1870, they went on board the steamer *Virginus*, in the port of New York, with the intention of going on her as sort of passengers to Mobile, Ala., having been informed that the crew of this steamer had signed articles for Mobile, Cedar Keys, and Havana; that they, both of them, know personally Thomas Anderson and George W. Miller, who were seamen on this steamer during this voyage; that they have heard read the affidavits of Anderson and Miller, dated 24th December, 1870, and all the statements therein made in respect to what was done on the *Virginus* are, as they believe, correct and true: that they, the said McCann and Murphy, remained on board the steamer after Captain Shepperd left her at Puerto Cabello.

And these deponents further say that the *Virginus* went from New York to Curaçoa, from Curaçoa to Laguayra, and at the latter place General Quesada, with three or four Cubans, left the steamer, which then went on to Puerto Cabello, where she arrived about October 24, 1870; that not many days after she reached Puerto Cabello, General Quesada and his staff came there in the Venezuelan steam gunboat called the *Oriental*, which was flying the Venezuelan flag; that soon after this gunboat came in General Quesada came aboard the *Virginus*, and not long after the cargo of the *Virginus* was placed, a part of it in the fort at Puerto Cabello, and a part placed on board this Venezuelan gunboat *Oriental*.

And these deponents further severally say that about the time the cargo was taken out of the *Virginus* nearly all the sailors and stewards of the *Virginus* left her, and one engineer by the name of Greenwood, but these deponents both remained on the *Virginus*; that the places of the sailors and stewards who went away from the *Virginus* were filled by sailors and stewards taken from the Venezuelan gunboat *Oriental*.

And these deponents further severally say, that after taking the cargo out of the *Virginus*, one Marquez, who was the chief engineer of the steamer from New York to Puerto Cabello, was nominally made captain, but, being an engineer, he did not understand navigation; and the sailing-master was one Camacho, who came on board the *Virginus* from the *Virginia Seymour* with General Quesada, in the harbor of New York; that the *Virginus* then went from Puerto Cabello along the coast of Laguayra, where she took on board a lot of people who were said to be Venezuelan soldiers, and carried them to Barcelona, where they got off, and the *Virginus* returned, touching at Laguayra and Puerto Cabello.

And these deponents further severally say, that after General Quesada was on board the *Virginus* took in tow the Venezuelan gunboat *Oriental*, before spoken of, and proceeded with her out to sea; that when the *Virginus* first started with the Venezuelan gunboat in tow she hoisted the American flag; that when not very far out at sea there was sighted a fleet of schooners said to belong to the party of "Blues," in Venezuela, each of them armed with one pivot-gun; that when they came in sight of the schooners the *Virginus* hauled down the American flag and ran up the Venezuelan flag, which was red, yellow, and blue, with seven stars; that pretty soon the gunboat *Oriental* fired on the schooners, and they hove to, and then the *Virginus* hauled down the Venezuelan flag and ran up the American flag again; and then General Quesada mounted up on the wheel-house of the *Virginus* and, striking his breast, said something which meant like this: "Americano, we take you into protection;" that then the gunboats surrendered, the *Virginus* taking five in tow, and the gunboat *Oriental* two in tow; and all went to Laguayra, where the *Virginus* left the schooners lying under the fort; and the *Virginus* coaled up at Laguayra, and then went to Curaçoa.

And these deponents further severally say that the first money they could get for their services on board the *Virginus* was after arriving, as just stated, at Curaçoa; that at Puerto Cabello they could get nothing; and when they left the steamer, or tried to leave

her, the consul of the United States told them they must go back, and the military of Venezuela drove them to the ship, but that at Curaçoa the men said that the articles had been broken, because the Virginus had carried the Venezuelan flag, and they insisted on being paid and discharged, and these two deponents were paid and sent to St. Thomas by the consul.

his
JOHN + McCANN.
mark.

his
MATTHEW + MURPHY.
mark.

Sworn to and subscribed by their marks before me, (the said affiants being unable to sign their names,) and being first read over and explained by me to the said affiants, who acknowledged that they fully understood the contents thereof, this 22d day of November, 1873.

H. J. BEGLY,
Notary Public, Kings County, New York.

[Inclosure 10.]

Deposition of Thomas Gallagher.

UNITED STATES OF AMERICA,
Southern District of New York, ss :

To all to whom these presents shall come :

I, Joseph Gutman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting :

Know ye that, on the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seventy-three, before me, at my office, No. 29 Nassau street, in the city of New York, appeared as a witness Thomas Gallagher, a mariner, formerly on board the steamship Virginus, produced by the consul-general of Spain for the district of New York, in the United States of America; and that I was attended at the same time by Sidney Webster, esq., counselor at law in said city, representing the aforesaid consul-general of Spain, and by George Bliss, esq., attorney of the United States for the southern district of New York, attending by the direction of the Secretary of State of the United States; and that the aforesaid witness, having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me, according to the laws of the United States, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose in my presence as follows, that is to say:

1. Question. What is your age, occupation, place of birth, and present citizenship?—Answer. My age is forty-one; my occupation is ocean-steamship fireman; I was born in Ireland, and am not a citizen of the United States.

2. Q. Did you ship on board the steamer Virginus in October, 1870, on her voyage from this port; and, if so, for what voyage did you sign shipping-articles?—A. I shipped on her on the articles. I didn't read the articles, and when I asked Captain Shepperd some questions in regard to the articles, he made some joking remark, and told me he would see me as far as a crow would fly in a certain place before he would tell me any more, and so he verbally told us we were going to Cedar Keys and Mobile, to run between there and Havana, and mentioned at the same time that we might call in to some port or ports in the Caribbean Sea.

3. Q. Who was Captain Shepperd?—A. He was captain of the Virginus at the time, represented himself as such, and acted as such.

4. Q. Do you remember at what place you signed shipping-articles?—A. Signed shipping-articles at the foot of Leroy street and West street, New York City, aboard the steamer Virginus, in the cabin.

5. Q. Who, besides Captain Shepperd, do you remember was present at the time you signed articles?—A. Chief engineer.

6. Q. What was his name?—A. Marguiz.

7. Q. Who first suggested to you to ship on the Virginus?—A. A man by the name of Quigley, a water-tender, who was on the ship working on her when she came from Washington to New York, that I had been acquainted with previous. He asked me to go; he wanted me to come with him, and he introduced me to the first assistant engineer, Mr. Greenwood here, and I got a job.

8. Q. At the time you signed shipping-articles, and before the steamer departed out of the port of New York, was anything said to you about a voyage to Curaçoa; and, if so, what?—A. There was nothing said to me about the voyage to Curaçoa whatsoever, or any other place. I had no idea only she was going to run between some port of Florida and Cuba, I didn't care which. That is what I understood.

9. Q. After the *Virginius* left the port of New York what port did she first make?—A. Curaçoa.

10. Q. In what capacity did you serve on that voyage?—Served as fireman.

11. Q. Who was captain on the voyage?—A. Captain Shepperd was captain.

12. Q. Who was first engineer?—A. Marguiz was chief engineer. That is, first, I understood you.

13. Q. Do you know where Marguiz was born, or of what country he was a citizen?—A. I have heard it said that he was born in Poland. I never heard whether he was a citizen of this country. I could not tell anything about his citizenship.

14. Q. You mean of this country, the United States?—A. The United States; I could not tell where his citizenship was.

15. Q. Do you remember the day in October, 1870, on which the steamer set sail from New York?—A. Yes, sir; I have a distinct recollection of it. I can't say the day of the month. I did know, but I forget it.

16. Q. Had she, to your knowledge, any passengers on board when she left the wharf at New York?—A. No, sir; I didn't know that she had any passengers at the time she left the dock, but she did before she left the port.

17. Q. State who, and tell what happened.—A. We left the dock and went down the bay, and she stopped in the bay, and a tug-boat came alongside of her, and put some, what appeared to me, Cuban gentlemen aboard of the *Virginius*, and some boxes along with them. These boxes, I considered at the time that they had arms in them, such as revolvers and rifles.

18. Q. How many of these Cuban gentlemen, as you call them, were there, if you know?—A. I could not say the exact number, but I should judge there were more than ten, and somewhere between there and twenty; I think it was nearer twenty.

19. Q. Can you give the names of any of them?—A. There was one of them represented to me as General Quesada; there was another by the name of Varona; there was another by the name of Comancho. There were others whom I forget; I did know their names, but I have forgotten.

20. Q. Do you know the name of the tug?—A. I disremember the name of the tug.

21. Q. How long after the *Virginius* arrived in Curaçoa did she lie in the harbor before leaving?—A. The exact time I can't say, but she remained there some days—a few days. She remained there until a schooner arrived in there.

22. Q. What was the name of the schooner?—A. That I can't say. This schooner came from New York, and came in there from Curaçoa, and left there very suddenly out of the port. I understood the authorities were going to lay seizure on her, to examine her papers. The schooner went away first after coming in, and the *Virginius* followed her down the coast, where there was some salt-works. We came alongside of her in the evening and we banked our fires. The officers of the *Virginius* asked us firemen to assist in discharging the contents of the schooner into the *Virginius*, and we said we wanted to get pay for it. So, finally, they made an arrangement that they would pay us, and we helped all the freight—most of the freight was ammunition and arms—in the schooner, and there was provisions, a heavy load—a large schooner; then, after that, they gave us orders to get up steam and to get under way, and we refused to do so. We wanted to know where the steamer was going to. They told us she was going to Laguayra. We refused. We wanted to know the destination of the ship. We believed that she was going to Cuba to run the blockade; that we considered she would not take any heavy arms and ammunition if she was not going there, and they said "No." So, finally, they asked us what we wanted. We said we wanted to be paid, if we would run the risk to go to Cuba; and they told us to go to the fore-castle and consult among ourselves what our demand was, and to tell them. We done so, and came back and told them we wanted \$150 in gold each to run the ship in there—to work it; and, finally, they agreed to give us \$150 in gold, and then there was a written agreement drawn up, in the presence of myself and two other firemen, in the cabin of the ship, to that effect, they guaranteeing that they would give us \$100 in gold each for the run, and our wages to continue at the same time.

23. Q. Who did the talking at this time in behalf of the crew?—A. At the first time that we went aft we all went together, and each one had the privilege of speaking. I made some remarks, and one or two other men. Then, on another occasion, me and another man went aft; the other man was George Miller; and then, afterward, Captain Shepperd sent for me specially, and General Quesada sent for me on another occasion, and they talked about the crew and everything relating to the affairs of the ship that interested us. They talked it over to me, and wished me to advise the crew what was right, and they wanted me to get their discharge.

24. Q. At this time who told you where the steamer was going?—A. Captain Shepperd, and one of the Cubans told me in the name of General Quesada. The general was present, and he interpreted his words to me, and pledged his honor that she was going there.

25. Q. What was the name of the person who interpreted General Quesada's words to you?—A. His name I don't know. I recollect him good, and if I heard the name I would know it; that was the man who paid us off.

26. Q. Where did General Quesada and Captain Shepperd tell you the steamer was going?—A. They said she was going to Laguayra direct. They admitted, at the same time, that she might run the blockade, or that she might run into Cuba—we used to call it "blockade"—but that she was not going there directly, and that, whenever she would be going to leave any port to go direct to Cuba they would let us know.

27. Q. After this conversation in the cabin did the steamer get under way and go to Laguayra?—A. Yes, sir.

28. Q. What happened at Laguayra within your own knowledge? Did Quesada leave, or what happened?—A. No; there was nothing unusual. Some of them went ashore—some of the officers—and we stopped there for some time; the exact time I don't remember that we stopped there.

29. Q. After leaving Laguayra where did the steamer go?—A. I believe we went—I am not positive, but I believe we went to Puerto Cabello.

30. Q. How long did the steamer at that time remain there?—A. I believe she stopped about a week at Puerto Cabello at this time. She left there and returned again, and went up the coast.

31. Q. Please state what happened at Puerto Cabello at the first time the steamer was there.—A. We discharged the arms and ammunition. They were put into a fort there from the *Virginus*. They were put ashore into the fort at Puerto Cabello.

32. Q. A part of it was put there, and what was done with the rest?—A. The bulk of it was put ashore at the fort.

33. Q. What was done with the rest?—A. Kept aboard. They always had some arms aboard.

34. Q. Was any of it put into another steamer?—A. No, sir; I don't know of any being put into another steamer.

35. Q. After putting the cargo out of the *Virginus* she took on board what?—A. Venezuelan troops, and carried them down the southern coast of Venezuela to Barcelona, and left them there, and then the *Virginus* returned to Puerto Cabello. I am not sure whether she went then to Curaçoa before she towed out a man-of-war or not. I am not positive whether she towed out the man-of-war before she went to Curaçoa, or went to Curaçoa first. I have a kind of recollection that she went to Curaçoa and got coal, and then came back to Puerto Cabello and towed out a man-of-war.

37. Q. What man-of-war was this?—A. I don't mind what her name was, but I know saw her—a gunboat, like. She belonged to Venezuela. She was a Venezuelan man-of-war. It was stated that she belonged to Guzman Blanco. The *Virginus* towed the steamer out of the harbor of Puerto Cabello, and between Puerto Cabello and Curaçoa we met some schooners. I understood these schooners belonged to the opposite party in Venezuela. We towed the Venezuelan steamer out to sea, and we met some schooners, and this Venezuelan steamer fired a gun, and hove these schooners to, and these schooners surrendered. I heard at the time that General Quesada asked the captains of the schooners to surrender to him, and that they would have the protection of the American flag. That is what I heard, and the schooners did surrender, and the *Virginus* took them in tow. I don't know the exact number that she took in tow. She took two, I know, in tow to Laguayra. I believe the Venezuelan war-steamer took the balance of the schooners in tow.

38. Q. After the *Virginus* arrived at Laguayra, with these schooners in tow, what did she next do?—A. She went to Curaçoa, and from there to Puerto Cabello, and from there back to Curaçoa again, where I left her. I am not certain whether she called at any intermediate ports in the mean time.

39. Q. While you were on the *Virginus* what flag did she fly?—A. She flew the American flag, excepting on one occasion; during the time she was assisting the capture of these schooners the Venezuelan flag was run up on the *Virginus*.

40. Q. Did you never see the *Virginus* fly any other flags but the United States and the Venezuelan?—A. I never did see the ship fly any other flags. I saw one of the ship's boats flying the Cuban flag. I saw one of the *Virginus*'s small boats fly the Cuban flag.

41. Q. Please state distinctly when and where you saw a small boat of the *Virginus* fly a Cuban flag, and who was in the small boat at the time. A. It was at Puerto Cabello, and General Quesada and Varona were in the small boat at the time, and a portion of the crew of the *Virginus*—Ambrose Rollins and George Miller, two of the crew, were in her.

42. Q. At this time did General Quesada and Varona go directly from the *Virginus* into the small boat?—A. Yes, sir; they did.

43. Q. Do you know where they went at the time the small boat had the Cuban flag?—A. They went toward a man-of-war that lay outside the harbor a short distance; a Venezuelan man-of-war.

44. Q. Was this the same Venezuelan man-of-war that the *Virginus* towed out to sea and captured the schooners?—A. No, sir.

45. Q. Do you remember the name of this Venezuelan man-of-war?—A. I do not.

46. Q. Was this before or after the cargo was taken out of the *Virginus* and part of it placed in the Venezuelan fort at Puerto Cabello?—A. It was after the cargo was taken out.

47. Q. Was it before or after the *Virginus* towed the Venezuelan war-steamer to sea and the schooners were captured?—A. Previous to the time they captured the schooners.

48. Q. Did you see, with your own eyes, the Venezuelan flag flying on the *Virginus* at the time of the capture of the schooners?—A. Yes, sir.

49. Q. On what part of the ship or on what mast was the Venezuelan flag flying?—A. Flying at the main; flying aft. She had no mainmast.

50. Q. At this time did you see the flag of the United States also flying?—A. No, sir; I did not.

51. Q. Was General Quesada on board the *Virginus* at the time the schooners were captured?—A. He was; I saw him.

52. Q. Where was he standing, if you remember?—A. He was standing on the port quarter-deck.

53. Q. Did you hear him express any words at the time; and, if so, can you say what they were?—A. I heard his voice, but I could not understand what he said, for he spoke in Spanish.

54. Q. Who did he appear to be addressing?—A. The captains of the schooners.

55. Q. The captain of one of the captured schooners?—A. Yes, sir.

56. Q. Who was in command of the *Virginus* at the time of this capture?—A. I believe Marguiz was captain.

57. Q. Had Captain Shepperd left her?—A. Yes, sir.

58. Q. But you have testified that Marguiz was the chief engineer?—A. Yes, sir.

59. Q. How was he captain?—A. Captain Shepperd was discharged, and then the chief engineer was made captain. He took command, or was made captain by the Cubans; by General Quesada.

60. Q. Was he competent to navigate the steamer?—A. That I can't say.

61. Q. Was there any other person on board, to your knowledge, who appeared to be sailing-master or navigator?—A. Yes, sir; one Cuban, by the name of Camacho.

62. Q. Is it not true that Marguiz was only a *paper captain*, and Camacho the real captain?—A. That I believe to be the fact.

63. Q. I refer now to the time of the capture of the schooners, and ask who was chief engineer at this time?—A. Marguiz was chief engineer then, and all the time that I was on the ship.

64. Q. At this time was Marguiz both captain and chief engineer?—A. Yes, sir.

65. Q. Who gave orders on deck at the time of the capture?—A. Well, I thought that Quesada had more to say than any one else; that the ship was under his control at that time altogether.

66. Q. Did you ever sign any other articles for the *Virginus* except those you signed in the port of New York, to which you have referred?—A. I never did.

67. Q. Did the schooners which you captured belong to the party of Guzman Blanco?—A. I understood they belonged to the opposite party.

68. Q. To which party did the Venezuelan steamer belong which you towed out to sea?—A. Guzman Blanco.

69. Q. What flag did this steamer fly when towed out and at the time of the capture of the schooners?—A. I can't describe the flag particularly, but I think she flew the flag of the party called the "Yellows." I understand that that party to which the schooners belonged was called the "Blues."

70. Q. Why did you leave the *Virginus*?—A. I considered it was not safe to stop on her any longer; after Captain Shepperd left the ship I could not say who controlled the ship. And there were outside parties on the ship that interfered with the men and discipline of the crew that I considered had no right to do it, and they done so.

71. Q. Who were those "outside parties"?—A. Quesada was the principal one.

72. Q. To what nationality did these "outside parties" belong?—A. Cuba.

73. Q. Did you ever report to any American consul that the *Virginus* had worn or carried a Venezuelan flag?—A. I did.

74. Q. To whom?—A. I believe his name was Faxon, in Curaçoa—the American consul.

75. Q. Who was with you, if any one, when you spoke to Consul Faxon about the flag?—A. Stephen Cox and Edward Luby.

76. Q. Where were you when the conversation took place?—A. In the American consul's office at Curaçoa.

77. Q. State, if you can, what took place at this time, in as nearly the words as you can now remember.—A. I asked the American consul on that occasion for to compel the engineer of the ship to discharge me; that I had asked my discharge off of the ship from the chief engineer, and he had denied it me. I refer to Chief Engineer Marguiz. Marguiz denied me. He told me that I could get my discharge and what wages was coming to me, but that I would get no three months' extra pay for being discharged in a foreign port, when he didn't discharge me, when I was leaving by my own free will; that I could not claim no three months' pay; and I thought differently, to that, and I went and saw the American consul, and asked him for my discharge to him; and I likewise told the American consul that I considered that the ship had broken the laws of the United States, and that if I was captured by the Spaniards on her that I could not get no protection on that account from the United States Government; that the ship done enough to condemn her; that she was little better than a pirate, or words to that effect. And I stated to him what the ship did do; that she hoisted the Venezuelan flag on one occasion—took down the American flag and hoisted this other flag; that she assisted in capturing these schooners belonging to the Venezuelan party; that she had arms and ammunition aboard of her; that she had two brass guns mounted on her deck at one time; that she was going to run into Cuba, to run men and munitions there; and that I claimed my discharge on this account, and I wanted protection from him. He told me to go aboard the ship and stop there until I would hear from him, and that he would attend to it and give me every protection. I left his office then, and that same evening I was arrested and locked up that night by the police of Curaçoa, I understood, for making this complaint against the ship, and sent aboard the next morning, and was kept confined to the ship until the American consul came aboard and discharged me.

77½. Q. What did the consul say to you, if anything, when you told him what flags the *Virginus* had used and what business she had been in?—A. At the time that I told the American consul this he made no reply to me on that day, but in the course of some time after, after a week or so, he wrote a letter for to be read to the crew, and the engineer read this letter, and the consul stated in this letter, according as the engineer read it, that he considered, in looking over all these things that I charged the ship with, that she hadn't done anything that was wrong. That was it. And that this thing of her hoisting the Venezuelan flag, that it was represented to him that it was a mistake that was made by some of the crew, that hoisted it through a mistake, and that it was only up for a very short time, he said, and that as soon as they took notice of it they took it down. That was the way it was represented to him by the officers of the ship, and he considered it was not any serious matter; and he finally stated that he could not comply with my request to discharge us on these charges.

78. Q. Did you get your three months' extra pay?—A. Yes, sir.

79. Q. From whom?—A. Well, I can't tell you exactly now. I will tell you the circumstances how we did get it. It was paid, but we didn't get it all.

80. Q. Paid by whom?—A. Paid by the American consul, two months' pay; three months' given, but the consul takes one month's. And then out of our two months' he deducted our passage-money on a schooner from Curaçoa to Saint Thomas. That was \$13, I believe, each. And he sent this money of ours, this extra pay, he sent it by the captain of the schooner to the consul in Saint Thomas; and the consul in Saint Thomas—it was gold, and he changed it into silver, and there was something made out of that. That reduced it for us, and he paid \$20 apiece out of our money, though he admitted at the time that he should charge us nothing, though as the other consul did not act right he could do no better.

81. Q. For what did he pay \$20?—A. For our passage from Saint Thomas to New York on the *Merrimac*.

82. Q. Did you, or the crew, to your knowledge, make any representation in writing in respect to the *Virginus*?—A. I made no representation in writing, and I don't know of any of the crew that did. But I want to explain: he took a note of what I told him, and I made an affidavit to it, and the other two men that was with me done the same.

83. Q. Do you know what the consul did with this affidavit of yours?—A. I don't know, sir.

84. Q. How many of the crew or engineers or firemen of the *Virginus* were discharged at the same time with yourself?—A. All the firemen and coal-passers and one water-tender were discharged along with me.

85. Q. Why, if you know, did the consul come on board the *Virginus* at this time to discharge you?—A. Well, to examine all the crew with reference to these charges that I and the other two men made against the ship. He brought each one of the crew separately, and questioned them with regard to the ship, and the voyage, and every-thing relating to her.

86. Q. And after this examination, he discharged you and the other persons to whom you have referred?—A. Yes, sir.

87. Q. Then, I understand you to say that when you made the first representations to the consul, at his office, he told you he would attend to it, and that subsequently he came on board the *Virginus*, and that Marguiz read a statement to you, which he said was prepared by the consul, in which the consul refused to discharge you?—A. That is correct.

88. Q. How, then, and by whom were you discharged?—A. We were discharged by the chief engineer and the American consul both.

89. Q. Had not the chief engineer, previously to this, refused to discharge you?—A. Yes.

90. Q. Do you know where the *Virginus* got firemen and crew to take the places of those who left?—A. I don't know.

91. Q. At the time you were discharged was General Quesada on board the *Virginus*?—A. I believe he was not; at least I did not see him.

Being cross-examined by George Bliss, United States attorney, he says:

92. Q. How large a number of persons, independently of those you call passengers, were on board the *Virginus* when she left the port of New York?—A. I don't know the exact number; I should judge there was in or about thirty.

93. Q. Was there any mate?—A. There was a mate.

94. Q. What was his name?—A. That I disremember.

95. Q. More than one mate?—A. Second mate.

96. Q. Remember his name?—A. His name was Griffiths.

97. Q. Does that include the firemen and coal-passers that you have spoken of?—A. Yes, it includes all the ship's company.

98. Q. Did any of them except the captain leave before you did?—A. No, I believe they did not; not to my knowledge.

99. Q. Did any other persons, after the vessel left the port of New York, come aboard of her to remain, prior to the time of your leaving the vessel?—A. Yes, sir; General Quesada and a number of—

100. Q. I say after you left New York?—A. No; there did one come aboard.

101. Q. Who was he?—A. Varona.

102. Q. When did he come aboard?—A. I think it was in Puerto Cabello.

103. Q. Where did the captain leave?—A. Puerto Cabello.

104. Q. Did he leave before the landing of the guns in the fort there?—A. No, sir.

105. Q. He left after?—A. After.

106. Q. He left before the schooners were captured?—A. Yes.

107. Q. How many schooners in all were captured?—A. I don't know the exact number; I should judge there was five or six.

108. Q. You referred once to going to Puerto Cabello at a time when the crew wanted to leave. Was that the time that you have spoken of when you made the complaint to the consul?—A. No, sir.

109. Q. There was another time?—A. Another time after that when I went to the consul, at the time when a portion of the crew wanted to leave first; it was in Puerto Cabello.

110. Q. Just fix the date.—A. I can't say whether it was previous to carrying those Venezuela troops, whether it was before we took those troops on board, or after returning from the expedition.

111. Q. But it was before they captured the schooners?—A. Yes, sir. The sailors and the steward and the waiters, they left at that time.

112. Q. Then they did leave?—A. Yes, sir.

113. Q. Did they come back again?—A. No, sir.

114. Q. The sailors, the steward, and the waiters left?—A. Yes, sir.

115. Q. All of them?—A. All of them, I believe.

116. Q. Were their places supplied?—A. Yes, sir.

117. Q. By whom?—A. Well, by some sailor-men that was picked up there.

118. Q. What became of those men who left; do you know?—A. They remained for some time in Puerto Cabello, until the consul got a ship and sent them to the States.

119. Q. Why did they leave; do you know?—A. Well, they thought that the ship was going to run into Cuba, and they thought they would run too much risk. There was Spanish men-of-war watching us all the time, and they were afraid if they were captured they would be dealt with in a very severe manner.

120. Q. Who discharged them?—A. They went to the American consul and got their discharge through him from the captain of the ship.

121. Q. Who was the captain at that time?—A. I believe Shepperd was captain at the time.

122. Q. Where do you say it was that you saw this small boat with the Cuban flag?—A. In the harbor of Puerto Cabello.

123. Q. You said outside parties interfered with the discipline of the vessel?—A. Yes, sir.

124. Q. You described them as Cubans. Can you name any of them?—A. General Quesada.

125. Q. Any others?—A. No, I cannot name any other.
126. Q. How did you know they were Cubans?—A. Well, they admitted themselves to be such.
127. Q. Can you tell the date when you were discharged, about?—A. No, sir; I disremember.
128. Q. Can you tell the year, or the month, or anything?—A. I think it was in December, 1871.
129. Q. About how long were you aboard the *Virginus*, in all?—A. We was between two and three months, or ten weeks, I think.
130. Q. You think it was in December, 1871?—A. Yes, sir.
131. Q. Was it in 1870?—A. 1870; yes, sir.
132. Q. You spoke of being arrested by the police. Had you been doing anything?—A. No, sir. I had been doing nothing wrong that I know of.
133. Q. Had you been creating any disturbance?—A. No, sir; I was sitting down in the house with a company of two or three others that I knew, and we were playing a game of cards quietly.
134. Q. Who came and arrested you?—A. A police-officer.
135. Q. Then you were taken aboard. Were there any of the officers of the vessel along when you were taken aboard?—A. No, sir.
136. Q. Were you taken at once aboard the vessel?—A. No, sir; taken and locked up.
137. Q. And then taken aboard the next day?—A. Yes, sir; in the morning.
138. Q. You said after you made the complaint to the consul and he told you to go aboard and he would see to it, that at some time he came aboard and examined the crew one by one?—A. Yes, sir.
139. Q. Was that before the letter was read out from him, saying that he could not discharge you?—A. I ain't sure; it was in or about the time, close, and I cannot say whether it was before the letter was read to us or not. I do not remember now.
140. Q. Was the consul present when the letter was read?—A. No, sir; he wasn't aboard the ship at the time. The letter was read, I believe, previous to the time that the consul came aboard, but I ain't positive. As soon as he finished reading the letter, the Marquis told you that he would discharge you and give you your three months' pay?—A. Yes, sir.
141. Q. Did he give you any reason why he did it?—A. Yes; he said he didn't wish to have any man with him that was dissatisfied or didn't want to sail with him.
142. Q. When you left to go to Saint Thomas, where was the *Virginus*?—A. She was at Carasa.
143. Q. She had remained there, had she?—A. Yes, sir.
144. Q. How long was that after the discharge? How long after the discharge did you leave to go to St. Thomas?—A. Immediately after; the same day.
145. Q. What occupation are you now engaged in?—A. I work as a fireman, but I ain't working since I have been out in the *Acapulco*.
146. Q. What capacity were you in her?—A. Fireman.
147. Q. How long ago?—A. November 3.
148. Q. Of this month, this year?—A. Yes, sir.
149. Q. Where are you now residing?—A. I can't give you the number of the house, as it is only a few days ago that I went in it. What is the number of the *Mohawk House*?
150. Q. Is it the *Mohawk House*?—A. No; but it is the next house to it.
151. Q. On Greenwich street?—A. On Spring.
152. Q. What have you been doing since you left the *Virginus*?—A. I have made my living by working as a fireman all the time since; not as a fireman all the time, but I have worked aboard a steamer in the fire-room all the time.
153. Q. What vessels have you been aboard?—A. I have been aboard the *Rising Star*, *Ocean Queen*, the *Cortes*. I have been aboard the steamboat *City of Lawrence*, and there are others that I can't call to mind.
154. Q. Have you been to Cuba since then?—A. No, sir.
155. Q. Been down in those regions at all?—A. I never was in any of them places, that is, Caraso or Puerto Cabello, since then.
156. Q. Have you been down in the Caribbean Sea?—A. I have been in Aspinwall.
157. Q. That is all, is it?—A. That is all.
158. Q. How came you to make this statement? How came you to be brought here?—A. Well, this gentleman here knowing that I was on the ship along with Mr. Greenwood, he told me that he had been down here.
159. Q. Who is this gentleman here?—A. Greenwood.
160. Q. Greenwood brought you here?—A. Yes, sir, he brought me here.
161. Q. Was Greenwood on board the *Virginus* with you?—A. He was.
162. Q. In what capacity?—A. First assistant engineer.
163. Q. Any inducement held out to you to make a statement?—A. No, sir; no more than that I would be recompensed for the loss of my time.
164. Q. You were promised to be recompensed?—A. Yes, sir, so that I should be at no loss.

165. Q. No amount fixed?—A. No, sir.

166. Q. How much time have you lost?—A. Up to the present; yesterday was the first day I came; I consider from yesterday.

167. Q. Only a couple of days?—A. That is all.

168. Q. How do you know what was in those boxes was ammunition, guns, &c.?—A. There was two brass howitzers, and there was one of the boxes broken, and I saw the rifles, and I saw cartridges and revolvers in another box. I saw shell and fixed ammunition.

169. Q. You spoke of Marquis as being a paper-captain, and Camancho as the real captain; why is that?—A. Because we considered that he was chief engineer, and I thought that he could not hold the two positions at the same time, and I thought that he was not qualified to be captain. I considered that he did not understand navigation, and I heard it rumored around the ship that this Camancho was the real captain. I saw him giving orders.

170. Q. You heard Camancho giving orders?—A. I did.

171. Q. What kind of orders?—A. Giving orders to the mate. And when we were working, discharging this freight out of the schooner into the steamer, he was present there, and he was giving orders to us and every one around that was working.

172. Q. You speak of one Varona as coming on board at Laguayra or Curaçoa?—A. Yes.

173. Q. And you also speak of Varona as coming aboard off the highlands from a tug. Those were two distinct persons?—A. Yes, I believe they were two distinct persons, and I suspected—

174. Q. No matter what you suspected. You said something about Marquis's birth. What did you say about where he was born?—A. I said I heard that he was born in Poland.

175. Q. From whom did you hear of it?—A. Well, I heard it amongst the crew—couldn't give the name of the party.

176. Q. You spoke of a Cuban flag as being on one of the small boats. What is a Cuban flag?—A. Well, I disremember now, but yellow was the principal color in it. There was yellow and blue, I think, and white. How the colors were arranged I can't tell you. I can't describe the Cuban flag.

177. Q. How did you know that the flag you saw in the boat was a Cuban flag?—A. Well, I heard everybody on board the ship say it was a Cuban flag.

178. Q. Had you ever seen a Cuban flag before?—A. No, sir; I had not.

179. Q. Have you ever seen one since?—A. No, sir.

180. Q. Can you describe what that flag was?—A. I cannot.

THOMAS GALLAGHER.

Subscribed and sworn to before me this 26th day of November, 1873.

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District of New York.

And now I, Joseph Gutman, jr., a duly-appointed commissioner of the United States circuit court for the southern district of New York, in attestation, do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witness, and were in my presence signed by him; and in attestation of the verity and solemnity of all of the foregoing, I do hereby attach my signature and seal of office this twenty-sixth day of November, in the year one thousand eight hundred and seventy-three.

[SEAL.]

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District of New York.

[Inclosure 11.]

Deposition of Ambrose Rawling.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

To all to whom these presents shall come:

I, Joseph Gutman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting:

Know ye, that on the twenty-fifth day of November, in the year of our Lord one thousand eight hundred and seventy-three, before me, at my office, No. 29 Nassau street, in the city of New York, appeared as a witness Ambrose Rawling, a mariner, formerly on board the steamship *Virginus*, produced by the consul-general of Spain

for the district of New York, in the United States of America, and that I was attended at the same time by Sidney Webater, esq., counselor at law in said city, representing the aforesaid consul-general of Spain, and by George Bliss, esq., attorney of the United States for the southern district of New York, attending by the direction of the Secretary of State of the United States; and that the aforesaid witness, having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth, in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me according to the laws of the United States, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose in my presence as follows, that is to say:

1. Question. What is your age, occupation, place of birth, and citizenship?—Answer. Age, 29; occupation, steamship-fireman; born in England; am not a citizen of the United States.

2. Q. Were you a fireman on board the *Virginus* on her voyage from New York to Puerto Cabello in the latter part of 1870?—A. I was.

3. Q. Did you see a person on board the *Virginus* whom you understood to be General Quesada?—A. I did.

4. Q. Did you see General Quesada, while the *Virginus* was lying at Puerto Cabello, go off from the *Virginus* in one of her small boats?—A. I did.

5. Q. Were you one of the oarsmen at that time?—A. I was.

6. Q. What flag, if any, did the small boat carry at that time?—A. The Cuban flag; what I suppose to be the Cuban flag.

7. Q. Can you describe it?—A. As near as I can recollect, it was a single star in blue.

8. Q. A single star in blue ground?—A. Yes, sir.

9. Q. How many oarsmen were there at that time?—A. There were six of us.

10. Q. Can you give their names?—A. Well, George Miller was one, and Daniel Shea, and Luby, and myself. I don't recall the other two.

11. Q. Who beside General Quesada was in the boat as passenger, if anybody?—A. I believe his name was Verona. We used to call him Verona.

12. Q. To what place did you pull the boat at that time?—A. We pulled it round past the fort, and went, I suppose, about two miles after we got outside the fort, and landed the boat high and dry upon the beach. This was, I think, on an island.

13. Q. State what you saw General Quesada do after he got out of the boat.—A. Well, he went about, I suppose, two or three hundred yards from where the boat was upon the beach, and he had some conversation along with another man. I don't know who he was.

14. Q. Whom he met?—A. Yes, who he met on the beach.

15. Q. Did he meet more than one that you saw?—A. No; only one—one man. Then there were three or four there besides this man, whoever he was.

16. Q. Were they in any military uniform that you saw?—A. Well, no; had no military about them as I saw.

17. Q. How long was it before Quesada and Verona returned to the boat, if at all?—A. O, it was fully three-quarters of an hour.

18. Q. Did you then pull Quesada and Verona back to the *Virginus*?—A. We did.

19. Q. Was the Cuban flag flying on the small boat when you returned?—A. It was lying in the boat.

20. Q. It was not flying?—A. No.

21. Q. Were you on board the *Virginus* when her cargo was taken out and put in a fort at Puerto Cabello?—A. I was.

22. Q. Subsequently to this did the *Virginus* transport the Venezuelan troops along the coast to Barcelona?—A. She did.

23. Q. Was it after this that you rowed Quesada in the small boat?—A. No; it was previous to this, to the best of my recollection.

24. Q. Were you on board the *Virginus* when she towed the Venezuelan gunboat out to sea?—A. I was.

25. Q. Did you row Quesada in the small boat before you towed the gunboat out to sea?—A. I did.

26. Q. Were you on board the *Virginus* at the affair of the capture or surrender of the schooners?—A. I was.

27. Q. How many schooners do you think there were?—A. Well, to the best of my recollection, there were five, and one made her escape, I think.

28. Q. Do you know whether these schooners were armed—had a gun on board?—A. I couldn't say now whether they had or not. I believe they had, though.

29. Q. When the *Virginus* towed the Venezuelan gunboat out, and at the time of the capture of this Mosquito fleet, did the *Virginus* have any guns mounted on her deck?—A. To the best of my belief, she had two small pieces.

30. Q. Did you hear or see any guns fired at this time by the Venezuelan gunboat?—A. I did.

31. Q. How many?—A. One; one shot.

32. Q. At this time, what flag was flying on the *Virginus*?—A. The Venezuelan flag, sir.
33. Q. Were you on the deck of the *Virginus* at the time?—A. I was.
34. Q. Did you see the flag with your own eyes?—A. I did.
35. Q. Did you see the American flag hauled down?—A. I did.
36. Q. And the Venezuelan flag run up?—A. I did.
37. Q. Did you see General Quesada at that time?—A. Yes; I saw him on deck.
38. Q. Where was he standing?—A. On the poop-deck; on the quarter-deck aft.
39. Q. Did you hear him say anything or use any words?—A. No; I did not.
40. Q. How many of the schooners, if any, did the *Virginus* take in tow?—A. Well, to the best of my belief, there were five.
41. Q. The *Virginus* took five?—A. Yes.
42. Q. How many did the Venezuelan gunboat take in tow, if any?—A. She didn't take any, because she went toward St. Thomas.
43. Q. To what place did the *Virginus* take the schooners she had in tow?—A. The first place we made, after we got the schooners in tow, was Lagunayra.
44. Q. And left them there?—A. Yes; and left them there.
45. Q. Where was the *Virginus* when you left her?—A. At Curaçoa.
46. Q. Were you discharged at the same time with Gallagher?—A. I was.
47. Q. Did you go to see the American consul at Curaçoa about your discharge?—A. Yes.
48. Q. Did you say anything to him?—A. No, sir.
49. Q. Did you hear anybody speak to him?—A. No, sir; I didn't hear what was passed between them.
50. Q. Where were you at the time of the conversation?—A. I was standing round with the rest of the crew.
51. Q. Where?—A. At the consul's office.
52. Q. Who went in and had the conversation with the consul, as you remember?—A. I almost forget now who it was, whether it was George Miller or not.
53. Q. Was it George Miller and Gallagher?—A. I don't know.
54. Q. Were you at any time put, or driven, on board the *Virginus* by the police, or by the authorities?—A. I was.
55. Q. Where?—A. In Puerto Cabello.
56. Q. Did you hear a statement read on the *Virginus* by Marquiz in respect to the discharge of the crew?—A. Yes, sir; I did.
57. Q. Why did you leave the *Virginus*?—A. Well, I thought, capturing these schooners and things out at sea, I didn't think it was safe for us to be aboard of her.

Cross-examined by Mr. Bliss:

58. Q. You spoke of that boat as having the Cuban flag; was it flying or lying in the bottom of the boat?—A. This Verona had it in his hand at the stern of the boat.
59. Q. (By Mr. Webster.) Was it flying when you went?—A. Yes, flying when we went.
60. Q. (By Mr. Bliss.) At that time did he have it in his hand?—A. Yes.
61. Q. (By Mr. Webster.) Flying you say?—A. Yes.
62. Q. (By Mr. Bliss.) Did he keep it flying all the time you were rowing to the island?—A. Yes; he had it in his hand all the time.
63. Q. Coming back, it was lying in the bottom of the boat?—A. Yes.
64. Q. You say you were arrested by the police?—A. Yes.
65. Q. What for; did they take you for a deserter?—A. No, sir; we was trying to claim our discharge; we got sick of the ship, but they drove us right aboard.

AMBROSE RAWLING.

Subscribed and sworn to before me this 26th day of November, 1873.

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District New York.

And now I, Joseph Gutman, jr., a duly-appointed commissioner of the United States circuit court for the southern district of New York, in attestation, do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witness, and were in my presence signed by him; and in attestation of the verity and solemnity of all of the foregoing, I do hereby attach my signature and seal of office this twenty-sixth day of November, in the year one thousand eight hundred and seventy-three.

[SEAL.]

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District New York.

[Inclosure 12.]

Deposition of John Furlong.

UNITED STATES OF AMERICA,
Southern District of New York, ss :

To all to whom these presents shall come :

I, Joseph Gutman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting :

Know ye, that on the twenty-eighth day of November, in the year of our Lord one thousand eight hundred and seventy-three, before me, at my office, No. 29 Nassau street, in the city of New York, appeared as a witness John Furlong, a mariner, formerly on board the steamship *Virginus*, produced by the consul-general of Spain for the district of New York, in the United States of America, and that I was attended at the same time by Sidney Webster, esq., counselor at law in said city, representing the aforesaid consul-general of Spain, and by George Bliss, esq., attorney of the United States for the southern district of New York, attending by the direction of the Secretary of State of the United States; and that the aforesaid witness, having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth, in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me according to the laws of the United States, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose in my presence as follows, that is to say :

1. Question. State your age, occupation, place of birth, and citizenship.—Answer. My age is 33 next April; I am a steamship-fireman; was born in Ireland; and am not a citizen of the United States.

2. Q. In October, 1870, did you ship at this port on board the *Virginus*?—A. Yes, sir.

3. Q. For what voyage did you ship?—A. Mobile, Cedar Keys, and Havana.

4. Q. Who told you that that was to be the voyage?—A. The chief engineer, Marquiz.

5. Q. Did you sign the shipping-articles?—A. I did, but the articles were not read to me.

6. Q. Where did you sign them?—A. On board the ship.

7. Q. Did you write your own name?—A. No, I made a mark. I cannot write my own name.

8. Q. The ship proceeded, did she not, directly to Curaçoa?—A. Yes, sir.

9. Q. Did you pull a small boat of the *Virginus* from the *Virginus* to a Venezuelan man-of-war, and was Quesada in it?—A. Yes, sir.

10. Q. What flags did this small boat carry on that occasion?—A. First the American flag, then the Cuban flag, and then a flag of truce.

11. Q. Who asked you to go in the small boat?—A. Mr. Marquiz, the chief engineer.

12. Q. At this time had Captain Shepperd left the *Virginus*?—A. Yes, sir.

13. Q. Who was captain at that time?—A. Mr. Marquiz acted as captain in port, and one of the Cubans acted captain outside.

14. Q. How many persons were in the small boat, and who were they?—A. General Quesada, Dr. Varona, and another man—I cannot tell his name—a Cuban, our second mate, and me, George Miller, Johnny McCormack, and Ed. Luby.

15. Q. Did the small boat on this occasion take Quesada to the beach, where he had a conference with a person?—A. Yes, sir.

16. Q. Were you on board the *Virginus* when a small fleet of schooners was captured?—A. Yes, sir.

17. Q. How many were there of these schooners?—A. Eight, sir.

18. Q. Had the *Virginus* any guns on her deck at the time?—A. Yes, sir.

19. Q. How many?—A. Two.

20. Q. Did you see them yourself?—A. Yes, sir.

21. Q. What flag did the *Virginus* fly at the time of this capture?—A. American flag, sir. After they took the schooners they put up the Cuban flag, and then pulled that down and put up the Venezuelan flag. They used the three flags in taking the schooners.

22. Q. Did you see Quesada on the *Virginus* at this time?—A. Yes, sir.

23. Q. Where were you standing?—A. Standing forward; he was standing upon the wheel-house.

24. Q. What did the *Virginus* do with the schooners, if anything, after their surrender?—A. Took them to Lagunayra.

25. Q. How many?—A. Seven; one broke loose and got into Curaçoa.

Cross-examined by Mr. Bliss :

26. Q. You say the Cuban flag was flown during that time?—A. Yes, sir.

27. Q. From what mast?—A. The flag-staff.

28. Q. How long?—A. About half or three-quarters of an hour at the furthest time.
29. Q. Was the American flag up at the same time?—A. No, sir; the American flag was pulled down and those put up.
30. Q. When was the Venezuelan flag flown, before the capture or after?—A. After.
31. Q. Do you know who put the flags up?—A. I don't; some Cubans.
32. Q. Who gave the orders?—A. Quesada.
33. Q. You are sure of that?—A. Yes, sir; I could not understand the language he used, but I judged from the motion of his hand in respect to putting up and taking down the flags.
34. Q. Do you know whom Quesada met when you went with him to the island?—A. No, sir. He met the commanders of the two Venezuelan men-of-war; those were the men he met.
35. Q. When did you leave the *Virginus*?—A. On the 11th November.
36. Q. Where did you leave her?—A. In Curaçoa.
37. Q. Anybody leave at the same time with you?—A. The whole crew of the firemen left together.
38. Q. Why did you leave?—A. Because we were not treated right; we had not the same living such as a crew ought to get.
39. Q. You were sent home by the American consul?—A. Yes, sir; but had to pay our own passage.
40. Q. How large was this Cuban flag that was flown on the *Virginus*?—A. O, as big as that desk.
41. Q. How large was the one flown on the small boat?—A. Not quite as big as the other one.
42. Q. What color was the Cuban flag?—A. A red, white, and blue flag.
43. Q. Red, white, and blue, arranged in stripes up and down or crossways?—A. Crossways.

his
JOHN + FURLONG.
mark.

Subscribed and sworn to before me this 29th day of November, 1873.

JOSEPH GUTMAN, JR.,
United States Commissioner, Southern District of New York.

And now I, Joseph Gutman, jr., a duly-appointed commissioner of the United States circuit court for the southern district of New York, in attestation, do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witnesses, and were in my presence signed by him, and in attestation of the verity and solemnity of all of the foregoing, I do hereby attach my signature and seal of office this twenty-ninth day of November, in the year one thousand eight hundred and seventy-three.

[SEAL.]

JOSEPH GUTMAN, JR.,
United States Commissioner, Southern District of New York.

[Inclosure 13.]

Deposition of Adolfo de Varona.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

To all to whom these presents shall come:

I, Joseph Gutman, jr., a commissioner of the United States circuit court for the southern district of New York, duly appointed and commissioned, and dwelling in the city of New York, send greeting:

Know ye, that on the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and seventy-three, before me, at my office, No. 29 Nassau street, in the city of New York, appeared as a witness Adolfo de Varona, formerly on board the steamship *Virginus*, produced by the consul-general of Spain for the district of New York, in the United States of America; and that I was attended at the same time by Sidney Webster, esq., counselor at law in said city, representing the aforesaid consul-general of Spain, and by George Bliss, esq., attorney of the United States for the southern district of New York, attending by direction of the Secretary of State; that the aforesaid witness having been first duly cautioned by me to declare the truth, the whole truth, and nothing but the truth, in respect to the matters concerning which he should be interrogated, and having then been duly sworn by me according to the laws

of the United States, did, in answer to the interrogatories addressed to him in my presence, voluntarily, freely, and solemnly declare and depose, in my presence, as follows, that is to say:

1. Question. What is your present place of residence and occupation?—Answer. Surgeon; 21 Clinton street, Brooklyn, State of New York.

2. Q. Are you connected with any public institution in Brooklyn; and, if so, in what capacity?—A. Surgeon to the Brooklyn Homeopathic Hospital; surgeon to the Brooklyn Maternity.

3. Q. Please state your age and country of birth.—A. I was born in Cuba, Puerto Principe, in 1840.

4. Q. Are you a naturalized citizen of the United States; and, if so, about what was the date of your naturalization?—A. I am a citizen of the United States, naturalized in January, 1872.

5. Q. When did you first come to the United States?—A. In May, 1847.

6. Q. Where did you study or graduate in your profession as a surgeon?—A. First, in Philadelphia; secondly, in Edinburgh, Scotland; thirdly, in Havana, Cuba.

7. Q. Were you in Puerto Principe when the Cuban revolt broke out at Yara?—A. I was.

8. Q. Did you sympathize or take part in that revolt; and, if so, in what way?—A. I was the founder of the Conspirator centers at Puerto Principe.

9. Q. Did you know Cespedes, the leader of the revolt?—A. I didn't know him personally at the beginning of the revolution, though I was in communication with him; met him afterward in the field, and then became firm friends.

10. Q. When did you enter into the military service of the revolt, and in what capacity?—A. Immediately on the rising at Yara; I was imprisoned by the Spanish government.

11. Q. This was about what date?—A. This was about the 10th or 12th of October, 1868. I was imprisoned by the Spanish government at Puerto Principe, where I was condemned to death, and pardoned by the first amnesty by Captain-General Dulce, and released on the 29th of November of the same year.

12. Q. Then you went where?—A. Then I went immediately to the insurgent army. I left Puerto Principe for the field.

13. Q. And joined it in what place?—A. Joined Manuel Quesada, who had then landed from Nassau. He had brought in a small expedition of arms and ammunition in a small sailing-vessel. Two or three thousand rifles he brought with him.

14. Q. Do you remember the place you joined him?—A. Yes, sir; joined him at La Gloria.

15. Q. Where is that?—A. About twelve miles from Principe.

16. Q. Toward the coast or in the interior?—A. No; toward the center; in the interior. Then I was made surgeon-general of the insurgent army.

17. Q. How long after this did you remain in this capacity?—A. Before the attack on Las Tumas I requested to be allowed to resign my medical commission, and take a more active part in the military operations. I was then made colonel of the artillery corps, and remained in that capacity until I quit the island with Quesada, which was about January, 1870.

18. Q. In what relation to Manuel Quesada did you leave the island?—A. We were appointed a foreign mission, of which he was the president and I the secretary.

19. Q. A foreign mission to what country?—A. To all foreign countries in general, but more particularly to the United States.

20. Q. Did you, as secretary, know the object of that mission, and by whom it was commissioned, if any one?—A. Commissioned by Cespedes, the executive of the revolutionary body, to purchase arms and ammunition of war, that they might be conveyed to Cuba.

21. Q. Were there any directions in respect to enlisting or procuring men?—A. We had the power to enlist men.

22. Q. In the United States?—A. In the United States or any other country.

23. Q. By what means did you come to the United States at that time?—A. We left the coast of Cuba in a small dug-out boat or canoe, crossed the Bahama Channel, and landed at Key Labos, an English island a few miles off the coast of Cuba. There we took an English fishing-schooner, which took us to Nassau, New Providence; there we chartered schooner which took us to Saint Augustine, Fla.; thence by rail we proceeded to New York.

24. Q. About what time did you arrive in New York City?—A. About February, 1870; the latter end of February or the first of March; about that time.

25. Q. At this time was not Marcellas Lemus in this country, sent by Cespedes?—A. He was.

26. Q. Do you know in what capacity he was here?—A. He was acting as minister plenipotentiary from the revolutionary government to the United States in case he might be admitted to act as such; in case a recognition by this Government gave him the power to act as such.

27. Q. As Lemus was here in a diplomatic capacity from Cespedes, what then were the precise duties of Quesada?—A. His duties were to carry out practically the work of purchasing arms and ammunition and conducting men to Cuba.

28. Q. He, then, was to control the material assistance to the revolution?—A. Yes, sir.

29. Q. Now, if you know, will you state what the Quesada mission did when it arrived in New York, first?—A. We interviewed the different bodies of Cubans that had been organized for the assistance of the revolution; tried to get from them the material means—that is, the necessary funds to buy these arms and ammunition.

30. Q. What bodies were in existence at that time, if you remember?—A. I remember the Cuban junta, I think then under the presidency of José Manuel Mestre, and subsequently under Miguel de Aldama.

31. Q. Previously to your leaving Cuba, had any expedition from the United States landed in Cuba?—A. To my certain knowledge the Perit expedition, under General Jordan, and the Salvador expedition, under Raphael Quesada, a brother of Manuel.

32. Q. Did you yourself see the expedition by Perit effect the landing?—A. I did, sir.

33. Q. About how many men were there, and under whose command?—A. I could not state certainly; possibly 200, under the command of General Thomas Jordan.

34. Q. Was General Jordan subsequently, to your knowledge, appointed by Cespedes to any command in the island of Cuba; and, if so, what command?—A. After the removal of Quesada from the command of the insurgent army Jordan was appointed in his place. And when Agramonte was appointed in his place, Jordan left the island and came to the United States.

35. Q. What, within your knowledge, was the first steamer purchased by the Cubans after your arrival here?—A. The Florida; by the seizure of which, I suppose, the Cubans lost between fifty and seventy thousand dollars.

36. Q. Do you know, of your own knowledge, of the purchase of the steamer Virginus?—A. I do.

37. Q. Were you one of the party which went on board the Virginus from the tug Virginia Seymour, and proceeded in her to Curaçoa?—A. I was.

38. Q. In what capacity on that voyage did you act in reference to General Manuel Quesada?—A. In the capacity of chief of staff.

39. Q. Did you leave the Virginus on the Billy Butts and proceed to Cuba?—A. I did.

40. Q. What happened to you in Cuba, and when did you again return to the United States?—A. The Billy Butts left me in Jamaica, and I left Jamaica in a small boat—a boat about two or three tons burden—which left me in the coast of Cuba. I then proceeded from the coast toward the interior in search of the insurgent forces, but met instead the Spanish outpost, and there I was shot through the right lung and left in the field for dead. I was picked up by Cubans, cared for, and returned to Jamaica, also in an open boat; thence to Saint Thomas; from Saint Thomas to New York, arriving about the 26th of December, 1870.

41. Q. With what object did you leave the Billy Butts on this expedition to Cuba?—A. To carry dispatches to President Cespedes. My dispatches were merely a letter of credit, and I was to state verbally that the affairs of Cuba in this country demanded that General Quesada should be appointed the sole agent of the republic in this country.

42. Q. Your object then was to procure from Cespedes the appointment of Manuel Quesada as sole director of the insurrectionary forces in the United States?—A. Yes.

43. Q. Do you know from what funds the steamer Virginus was bought and paid?—A. I do.

44. Q. Please state the character of the funds you procured, as nearly as you can, and the source of your information.—A. The funds were raised by personal subscriptions from Cubans, both rich and poor, in the United States, and placed with the treasurer of the foreign mission, Costello.

45. Q. Did they have a committee or chief managing party for the purchase?—A. Yes; I suppose there was a circle of three, who did all the purchasing of steamers and arms and attended to the outlay of funds.

46. Q. Who composed this committee?—A. I can only remember Martinez and Mora.

47. Q. Please give their full names, if you can.—A. Ramon Martinez and José Maria Mora.

48. Q. Do you remember to have met a person by the name of Patterson, who had to do with the Virginus, at the house of Mora, in the city of New York, in company with Quesada and Shepperd?—A. I remember the name, but I do not remember the person; I remember that he was there from the name, but I cannot picture him to myself. I do not remember the man at all.

49. Q. Was the steamer Virginus bought and paid for with these funds thus collected?—A. Yes, sir.

50. Q. How do you know that?—A. I, by being secretary of the mission, knew the details of all the transactions which were being made.

51. Q. Do you know what sum was paid for her out of the funds?—A. I do not know to a dollar, but it was in the neighborhood of \$15,000.

52. Q. Was this payment of this sum for the steamer out of the Cuban fund a matter of notoriety among the Cubans at that time?—A. It was known in the small circle of the foreign mission.

53. Q. Was the cargo of the Billy Butts paid for out of the same fund?—A. Yes, sir.

54. Q. Do you know of any arrangement or understanding by which Patterson was to be the nominal owner of the steamer?—A. I do. I knew that that was to be the case.

55. Q. Will you give as many as you can remember of the names of the persons who went on board the *Virginus* with you and General Quesada?—A. I remember the number was about twenty; I remember the names of General Ausmendi, Pablo, Yglesias, Eloy, Camachio, Dr. Bravo, Domingo Mora, (a son of José Maria Mora, of whom I have before spoken,) Lamadriz, (I do not remember his first name,) Francis S. Wilson. There were several others, whose names do not now occur to me.

56. Q. Do you remember an incident on the voyage in the *Virginus* from New York to Curaçoa, when the sail was sighted, and the suggestion was made to Captain Shepperd to capture the vessel? If so, please state what it was, as nearly as you can.—A. Such an incident occurred, I believe, when off the coast of San Domingo. I do not exactly remember the particulars, but I remember that something of that kind did occur, as the sighting a vessel and speaking of trying to capture her. She turned out to be an English or American vessel; she was not a Spaniard.

57. Q. Had you any doubt on the voyage and afterward that General Quesada had a right to control the *Virginus* as owner?—A. No doubt whatever.

58. Q. Had it been your duty to examine into the matter carefully?—A. As I was convinced of the fact, I do not remember that I examined into it. I was convinced of the fact, and knew that we were prepared to prove it if necessary to assume all authority over the vessel; although I do not remember having made it a subject of special examination, I knew it to be the fact.

59. Q. Was this question of ownership in Quesada conceded in respect to controlling Captain Shepperd?—A. Yes, sir; and we made it known to him as soon as we sailed. We made known to Captain Shepperd that the vessel was really ours, and not Patterson's or any one's else. When I say "ours," I mean belonging to the mission.

60. Q. Who did you understand in New York had most to do with Patterson in procuring her?—A. José Maria Mora.

61. Q. At Curaçoa, did you have any conversation or interview with the American consul in respect to the *Virginus*?—A. We saw him and showed him the American papers, &c.

62. Q. Did you see him yourself?—A. I did.

63. Q. You mean that you showed him the American documents of the vessel?—A. Yes.

64. Q. Did you state or explain to the consul at the time the real ownership and business of the vessel?—A. I did not.

65. Q. Did any one?—A. I cannot say that any one did, although I took it for granted that he knew, as everybody knew in Curaçoa.

66. Q. Will you please state when you were first asked to give your testimony in respect to the ownership and history of the *Virginus*?—A. This morning.

67. Q. By whom?—A. By Mr. Craig.

68. Q. Has there been at any time any suggestion to you, or to any one in your behalf, in respect to any pecuniary compensation for this testimony?—A. No, sir; I am not considering that. I am rendering service. I am merely answering the service of a summons from the President of the United States. I am answering the truth.

69. Q. Will you be good enough to produce the summons handed to you by which you appear?

[Witness produced paper.]

Cross-examination by Mr. Bliss:

70. Q. Where did you finally leave the *Virginus*?—A. I left her near Curaçoa.

71. About when?—A. When I went on board of the Billy Butts, and have never seen her since.

72. Q. Since your arrival here in December, 1870, have you remained in the United States?—A. I have, sir.

73. Q. Have your official relations to the insurrectionary government ceased or continued?—A. Ceased completely from the moment I intended to become an American citizen.

74. Q. Just tell us when that was.—A. That was immediately on my arrival.

75. Q. In December?—A. Yes, sir; immediately I made up my mind to do so.

76. Q. When did you become an American citizen?—A. In January, 1872, or thereabouts.

77. Q. Did you terminate your relations by a resignation or anything of that na-

ture?—A. I terminated my relations by a letter to General Quesada to the effect that my relations with him had ceased.

78. Q. In what court were you naturalized?—A. In the city-hall of New York. The special name of the court I do not know.

79. Q. Did you go there more than once for that purpose?—A. I think I have been twice. The thing was all done in one session. I, having all the necessary proofs, complied with all the necessary preliminaries.

80. Q. Did you not file a declaration of intention to become a citizen?—A. I do not remember; really, I do not remember about that.

81. Q. Why did you leave the service of the insurrectionary government?—A. Because I did not agree with the manner in which the insurrection was being carried out.

82. Q. Did the mission of which Quesada was minister and you secretary have written directions or powers from Cespedes?—A. It did.

83. Q. Did those specify that you were to purchase a vessel and arms?—A. They did.

84. Q. And enlist men?—A. I don't precisely remember that, but I think they did. I think the enlisting of men was included. Yes, the enlisting of men.

85. Q. You spoke of interviewing various Cuban organizations, or organizations friendly to the Cubans; you named only what we should call "junta"?—A. Yes.

86. Q. Can you name any other?—A. There were several other independent bodies, the names of which I do not remember.

87. Q. Composed of Cubans or Americans?—A. Composed of Cubans only, I think.

88. Q. Do you know, of your own knowledge, of the landing of the Salvador expedition?—A. I do.

89. Q. What did she carry, men or arms, or both?—A. Both.

90. Q. How many men?—A. I do not remember the number.

91. Q. Did you succeed in your mission of communicating with Cespedes when you landed in Cuba after leaving the Billy Butts?—A. I did not; but here I wish to state that whatever is not my own secret, whatever relates to confidences placed in me, I will not tell, but only those things of which I am at liberty to speak.

92. Q. Was Quesada, in point of fact, appointed sole representative of the insurgents in the United States?—A. I hear that he has been recently, but have no personal knowledge of the fact.

93. Q. You state, then, as of your own knowledge, that the *Virginus* was bought by funds raised by Cubans, and that she was placed nominally in the name of Patterson as owner, when in fact the Cubans owned and controlled her?—A. I knew it from the fact that these transactions were going on in my presence, and were subject of conversation of those with whom I associated.

94. Q. In what you did in connection with the mission and upon the *Virginus* and subsequent, were you under pay or a volunteer?—A. According to the constitution of the revolutionary government all officers were under pay, but that was merely nominal, we never having received a penny, neither did I ever intend to receive a penny.

95. Q. Were your personal expenses paid from any source other than your own funds?—A. They were paid from the funds of the mission.

96. Q. Where did those funds come from?—A. They were collected in the same manner as the others. It was all one common case—common treasury.

97. Q. Did you ever talk with Patterson or hear talked in his presence the subject of the putting of the *Virginus* nominally in his name?—A. I do not remember the personality of Patterson. I can only say that I remember the name and know that a person by his name was present when these things were being talked of.

98. Q. Was the amount of money paid by the Cubans for the *Virginus* ever spoken of in your presence; and, if so, what amount was named?—A. I remember it being \$15,000 or thereabouts.

99. Q. Did you understand that that amount was paid to Patterson or to some other person?—A. That amount was paid by this Patterson to the former owners of the *Virginus*.

100. Q. Did you ever see in connection with the *Virginus* an I. K. Roberts?—A. I also remember the name, and think he and Patterson were on board the tug-boat which took us to the *Virginus*, and that they returned to New York in said tug-boat.

101. Q. From what port did the tug-boat start?—A. Started from the North River.

102. Q. On this side or the other?—A. This side.

103. Q. What time in the day did you start?—A. The early part of the afternoon.

104. Q. What time in the day did you board the *Virginus*?—A. Late in the afternoon.

105. Q. Who first handed to you this paper? [Handing witness the summons.]—A. Mr. Craig.

106. Q. When and where?—A. In his office, on arriving.

107. Q. To-day?—A. To-day.

108. Q. How did it happen that you came to his office?—A. I made an appointment with him to come this morning to his house, when he first spoke to me of this affair.

109. Q. When did you make the appointment?—A. Early this morning, nine o'clock, he telling me that this was to be handed to me.

110. Q. You consider that you are under obligations to testify in response to that paper?—A. I do, as an American citizen.

111. Q. You mean moral or legal obligation?—A. I think both.

112. Q. You consider that the service of the paper imposes upon you any obligation which would not have existed had it not been served?—A. I consider that the presentation of this paper shows me that the President of the United States demands of me as a citizen to answer the truth to the questions put to me; had it not been handed to me I would not have known that such answers were demanded of me.

113. Q. Without it would you have testified?—A. I would not.

ADOLFO DE VARONA.

Subscribed and sworn to before me this 1st day of December, 1873.

[SEAL.]

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District of New York.

And now I, Joseph Gutman, jr., a duly-appointed commissioner of the United States circuit court for the southern district of New York, in attestation do hereby certify that the foregoing questions and answers, after having been written out as above, were read to the foregoing witness, and were in my presence signed by him, and in attestation of the verity and solemnity of all of the foregoing I do hereby attach my signature and seal of office this first day of December, in the year one thousand eight hundred and seventy-three.

[SEAL.]

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District of New York.

No. 714.

Mr. Fish to Admiral Polo de Bernabé.

DEPARTMENT OF STATE;

Washington, December 22, 1873.

The undersigned, Secretary of State, has the honor to acknowledge the receipt of the note of Admiral Polo, envoy extraordinary and minister plenipotentiary from Spain, of the 10th instant, in which various documents were transmitted in order to establish that the steamer *Virginus* had no right, at the time of her capture, to carry the flag of the United States.

The documents inclosed in the note of Admiral Polo have been carefully examined with a view to determine the duty of the United States toward Spain under the agreement recorded in the protocol of the conference between Admiral Polo and the undersigned on the 29th ultimo.

The undersigned is now directed by the President to say that the documents thus transmitted by Admiral Polo make it appear to the satisfaction of the United States that the *Virginus* was not entitled to carry the flag of the United States, and was carrying it at the time of her capture without right and improperly, and that orders have been given to the naval authorities of the United States to notify the Spanish authorities of Santiago de Cuba that the salute to the flag of the United States is to be spontaneously dispensed with by the United States.

The undersigned has the honor further to inform Admiral Polo that, it having been made to appear to the satisfaction of the United States that the *Virginus* did not rightfully carry the American flag, and was not entitled to American papers, the United States will, in accordance with the undertakings set forth in said protocol, institute inquiry and

adopt legal proceedings against the *Virginus*, if it be found that she has violated any law of the United States, and against the persons who may appear to have been guilty of illegal acts in connection therewith, so soon as the vessel or such persons may arrive within the territorial jurisdiction of the United States.

The conclusion thus arrived at makes it unnecessary to comment upon the many parts of the note of Admiral Polo of the 10th instant to which the undersigned would be obliged to record his dissent.

The undersigned takes this occasion to renew to Admiral Polo the assurances of his very high consideration.

HAMILTON FISH.

No. 715.

Admiral Polo de Bernabé to Mr. Fish.

[Translation.]

LEGATION OF SPAIN,

Washington, January 3, 1874.

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, while having the honor to acknowledge the receipt of the note of the honorable Secretary of State of the United States, of the 22d of December last, in which it is declared that the *Virginus* at the time of her capture had no right to carry the American flag, and did carry it wrongfully and improperly, must express to the Secretary of State the satisfaction with which the government of the Spanish Republic has been informed of this declaration, and that this result, which was confidently expected, practically demonstrates that there was no offense to the American flag, and that no intention to insult it ever could or ever did exist.

The undersigned avails himself of this opportunity to reiterate to the Hon. Hamilton Fish the assurance of his highest consideration.

JOSE POLO DE BERNABÉ.

III.—CONSULAR CORRESPONDENCE.

No. 716.

Mr. Hall to Mr. Fish.

[Telegram.]

HAVANA, Nov. 5, 1873. (Received Nov. 5—5.20 p. m.)

An official bulletin announces the capture of the steamer *Virginus*, October 31, toward the coast of Jamaica; it further states that a competent tribunal is trying the prisoners, whom it styles pirates.

HALL.

No. 717.

Mr. Fish to Mr. Hall.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 7, 1873.

The capture, on the high seas, of a vessel bearing the American flag presents a very grave question. It is reported that a person claiming to be an American citizen has been summarily tried and shot. Obtain full particulars as to capture and treatment of persons captured, and report.
FISH.

No. 718.

Mr. Hall to Mr. Davis.

No. 294.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 5, 1873. (Received November 11.)

SIR: I have time only to transmit herewith by this steamer the inclosed official bulletin, just published, announcing the capture of the steamer *Virginus*, on the 31st October, ultimo, near the coast of Jamaica, and that a competent tribunal is now trying the prisoners, one hundred and sixty-five in number, whom it styles pirates.

I have just transmitted the Department the substance of the foregoing in a telegram, it appearing to me that the vessel must have been captured, if not in British at least in neutral waters, and that important international questions may arise therefrom.

I am, &c.,

HENRY C. HALL,
Vice-Consul-General.

[Inclosure.]

[Gazette extra. Havana, November 5, 1873.]

According to a telegram received from the general commanding the first division the steamer *Tornado* got sight of the steamer *Virginus* at half past 2 o'clock in the afternoon of the 31st of October last, and came up with her at 10 o'clock at night, near the coast of Jamaica. The following persons, who were on board of her, were taken prisoners: Bembeta, a brother of Cespedes, a son of Quesada, Jesus del Sol, and others, making a total of one hundred and sixty-five persons, some of them being prominent characters. In their flight they threw the horses overboard, and used a portion of their cargo as fuel for the steamer's furnaces.

The proper tribunal is trying the piratical prisoners.

The above is published by order of his excellency for general information.

PEDRO DE ZEA,
Brigadier-General of E. M.

No. 719.

Mr. Hall to Mr. Davis.

No. 295.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 5, 1873. (Received November 12.)

SIR: Referring to my No. 294, of this date, informing the Department of the capture of steamer *Virginus* on the 31st ultimo, toward (as stated) the coast of Jamaica, by a Spanish vessel of war, the capture also of one hundred and sixty-five persons who were found on board, and their being under trial as pirates at Santiago de Cuba, I now trans-

mit a copy of a communication which I have addressed to the captain-general of this island, respecting the case of the *Virginus*, and of such citizens of the United States as may be found among the prisoners, claiming for them the rights, privileges, and considerations to which they are entitled by the treaty of 1795, and that no sentence of death shall be executed upon such citizens until the facts have been brought to the knowledge of the governments of Spain and of the United States. The communication referred to I considered necessary on account of the intense excitement prevailing here, the statement that the prisoners were being tried as pirates by a competent tribunal, and the universal clamor of the peninsular population for vengeance, urged on by such papers as the "*Voz de Cuba*."

The locality of the *Virginus* when captured has not been made public. That she was not in Cuban waters or within Spanish maritime jurisdiction is clearly evident, having been overtaken after a chase of eight hours toward the coast of Jamaica.

Telegraphic communication with Santiago de Cuba being interrupted, I have written to the vice-consul in charge there to ascertain and inform me, as soon as possible, whether the vessel was captured in neutral or British waters, and other particulars of the affair.

I am, &c.,

HENRY C. HALL,
Vice-Consul-General.

[Inclosure 1 in No. 295.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 5, 1873.

EXCELLENCY: An official bulletin published in a *Gaceta extraordinaria* of this date, as therein reported by order of your excellency, announces the capture of the steamer *Virginus* on the 31st ultimo, toward the coast of Jamaica, together with some one hundred and sixty-five persons on board, who are, as may be inferred from the same report, prisoners at Santiago de Cuba, and are now being tried, as pirates, by a competent tribunal.

It is not my purpose or desire to enter into any discussion in regard to the nationality of the vessel, or in regard to the intentions of the persons who were found on board; but I do respectfully call the attention of your excellency to the fact that the said steamer was not captured within the waters of Cuba, or its maritime jurisdiction, and being further persuaded that, among the persons who have thus been captured, there are some who are citizens of the United States, I hereby claim for them all the rights, privileges, and considerations to which they are entitled under the stipulations of the treaty of 1795 between Spain and the United States, and that no sentence of death shall be carried into execution until an opportunity has been had of bringing all the facts of the case to the knowledge of the government of Spain as well as that of the United States.

I have the honor to assure your excellency of my high consideration and respect.

HENRY C. HALL,
Acting Consul-General of the United States.

His Excellency the SUPERIOR POLITICAL GOVERNOR
and Captain-General of the Island of Cuba, &c.

[Inclosure 2 in No. 295.]

From the "Diario" extra of November 5, 1873.

HURRAH FOR SPAIN.

The commandant-general of marine has just communicated to us the following very important dispatch, dated Santiago de Cuba, November 1:

"The following persons were found on board of the *Virginus* and taken prisoners:

Bembeta, a brother of Cespedes, a son of Quesada, Jesus del Sol, together with others making 165 in all, some of them being very prominent persons. The names of some of them are unknown. In their flight they threw their horses and a part of their cargo overboard, and used hams and quantities of other provisions as fuel. The Tornado got sight of them at half past 2 o'clock in the afternoon, and overtook them at 10 o'clock at night, near the coast of Jamaica.

"The competent tribunal is trying the piratical prisoners."

This news, we do not doubt, will fill all loyal hearts with joy, for the *Virginus* is the first piratical vessel that has been taken by our brave tars. The filibusters have been taken to Santiago de Cuba, where they are being tried.

More severe penalties are provided for the crime of piracy than for any other by the laws of all civilized nations. We suppose that among the prisoners must be Santa Rosa, Ryan, the American, and others mentioned in the letters of our New York correspondent, who is known to the readers of the "Diario." Any intelligence that we may receive in relation to this important event will be published by us without delay. It now only remains for us to add that the Tornado is commanded by Captain Dionisio Costilla.

We have neither time nor space now to enter into considerations concerning the capture of the *Virginus*, to which vessel we have so often referred in our columns; but we neither can nor will close this article without warmly congratulating the Spanish navy, and especially the brave crew of the Tornado, his excellency Captain-General Jovellar, who commences his career on this island with so great success, as a nucleus of future days of complete victory, and the loyal men of Cuba, who will exclaim with us, filled with the most holy enthusiasm, Hurrah for the Spanish navy! Hurrah for the integrity of our country's territory!

We have just received a "Gaceta" extra, in which is published the second dispatch. It is pretty much the same as the one which our readers have just read above. It reads thus:

"According to a telegram received from the general commanding the first division, the steamer Tornado got sight of the steamer *Virginus* at half past 2 o'clock in the afternoon of October 31, and came up with her at 10 o'clock at night, near the coast of Jamaica. The following individuals were found on board of her and taken prisoners: Bembeta, a brother of Cespedes, Jesus del Sol, a son of Quesada, and others, making a total of 165, some of them being persons of importance. They threw their horses overboard in their flight, and used a portion of their cargo as fuel.

"The competent tribunal is trying the piratical prisoners.

"The foregoing is published for general information, by order of his excellency the brigadier chief of E. M., Pedro de Zea."

GENERAL NEWS.

A committee of the Spanish Club of Havana called to-day at 12 o'clock m. to congratulate his excellency the governor captain-general on his safe arrival, and to compliment him on his taking charge of his office, stating to him, at the same time, that they considered as a most happy augury the circumstance that his arrival on these shores had occurred at the same time with the capture of the filibustering steamer *Virginus*.

The same committee then congratulated his excellency the commandant-general of this naval station, and with him the navy at large, on the very important service just rendered by it to our country.

On receiving the intelligence of the capture of the *Virginus*, the inhabitants of Muralla and Mercaderes streets hung out festoons and similar emblems of rejoicing, as is done on national-holidays.

[From the "Voz de Cuba" extra, November 5, 1873.]

MOST IMPORTANT CAPTURE.—The command of his excellency General Jovellar in this island is inaugurated under the most brilliant auspices. The national steamer Tornado has captured the famous filibuster steamer *Virginus*, on board of which were the following rebel leaders: Jesus del Sol, Bembeta, a brother of Cespedes, a son of Quesada, and 160 other persons, among whom it seems that there were other leaders.

The valuable cargo of the *Virginus* has likewise fallen into the hands of the brave

tars of the Tornado. This consisted of material and munitions of war, and was all secured, with the exception of a few boxes of arms, which the pirates threw overboard before they were captured.

The Tornado took her valuable prize to Santiago de Cuba, and there, as we learn, the traitors were being tried by the marine court.

We have been unable to obtain a copy of the official telegram, and are consequently in possession of no further particulars.

We hope that the sword of the law will fall without delay upon these infamous wretches, who deserve no consideration. They have already abused Spanish clemency to excess, and have laughed at it; it is now time for them to feel Spanish justice.

We congratulate our most worthy captain-general with all our hearts on this most happy inauguration of his government in this island, and we confidently hope that it is a sure augury of the conclusion of the war under his glorious command. From the time when the first news of his appointment reached us, great were the hopes entertained by the good Spaniards of this island, in view of his well-known patriotism, his clear judgment, and his bravery, and it appears that divine Providence is announcing to us the realization of these hopes by the happy event which now occupies our attention.

On arriving here we received some details which our readers will read with interest.

This important capture is mainly due to the prudent measures adopted by his excellency the general of marine. Being aware of the movements of the *Virginus*, he accurately calculated at what point she would land, and sent the *Tornado* to watch that coast; this vessel, of all those belonging to the national navy that are now in Cuban waters, was the one best suited to the performance of the service in question, by reason of her great speed. In order to effect this, as we have heard, he had to make a great effort to prevent General Pieltain from insisting upon sending the *Tornado* to Jamaica, as he had ordered. The result has proved the correctness of the calculations of his excellency the general of marine, and we tender him our most heartfelt congratulations.

It seems that the chase lasted for eight hours without interruption, during which the *Virginus*, in order to feed the fires of her furnaces, and to keep up the steam at the highest pressure, burned everything that could produce this result, including the hams which she carried among her provisions.

We again most warmly congratulate their excellencies, General Jonvellar y Rigada, Don Dionisio Costillo, the gallant commander of the *Tornado*, and all the brave men under his command, on account of the glorious day that they have given to our beloved Spain; we congratulate, moreover, all the loyal Spaniards of this island, on which the brilliant light now begins to shine of that much-wished-for day of peace and happiness for which we have all hoped so long.

[Telegram.]

Since the foregoing lines were written, we have received a copy of the "Gaceta" extra, which is as follows:

"HAVANA, November 5, 1873.

"According to a telegram received from the commandant-general of the first division, the steamer *Tornado* got sight of the steamer *Virginus* on the 31st ult., at half past two o'clock in the afternoon, and overhauled her, at ten o'clock at night, near the coast of Jamaica. The following persons were taken prisoners: Bembeta, a brother of Cespedes, a son of Quesada, Jesus de Sol, and others, one hundred and sixty-five in all, some of them being prominent characters. They threw their horses overboard in their flight, and used a part of the cargo as fuel for the fires of their furnaces.

"The competent court is now engaged in trying the piratical prisoners.

"The above is published for general information, by order of his excellency.

"The Brigadier Chief of E. M.,

"PEDRO DE ZEA."

As this supplement was going to press, we received the following telegram from Santa Clara, which we hasten to publish. The enthusiasm at the capital is indescribable, and will be so at every point of the island where loyal hearts beat:

"SANTA CLARA, November 5, 1873.

"To the Editor of the 'Voz de Cuba':"

"The Spaniards of this city, without distinction, congratulate through you the captors of the pirates.

"ABDON HERNANDEZ.

"JOSE CALICHE."

We have suspended the printing of this supplement for a few moments on account of having received a call from several enthusiastic Spaniards, who, desiring to manifest the gratitude of the loyal to the gallant commander of the Tornado and the brave men under his command, have opened a subscription for the purpose of giving them evidence of this gratitude by a testimonial which will perpetuate both the remembrance of the very important service which they have rendered to the cause of Spain and the high estimation in which this service is held by the loyal men of Cuba.

The following is the list handed in by them :

Subscription for the purpose of presenting a testimonial to the commander, officers, and crew of the national steamer Tornado, for the capture of the filibustering steamer Virginus.

Antonio C. Telleria	\$10
Antonio Barreras	10
Mannel Maria Carreras	10
Bartolomé Ortole	10
Felix Mazario	10
Justo Nuñez Villavicencio	10
Andres Perez	5
Juan Bolet	10
Francisco Requeijo	10
Nicholas Giralt	10
Manuel Lage	10
Bernardo Valdés	2
José Pila	5
Pascual Goicoechea	10
Luis A. Suarez	10
Anselmo F. Saavedra	10
José Acena	10
To the above subscriptions the editor of the Voz de Cuba adds	50

As we were putting this supplement to press we received from the gentlemen whose names are given below the following sums :

Sr. D. Juan A. Colomé	\$100
Sr. D. José de Olano	100
Sr. D. José Snarez Argadin	100

The subscription-list still remains open at the office of the Voz de Cuba.

No. 720.

Mr. Hall to Mr. Davis.

No. 297.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 7, 1873. (Received November 13.)

SIR: Referring to dispatches Nos. 294 and 295 of 5th instant, relative to the capture of the steamer Virginus by the Spanish man-of-war Tornado, I now inclose further particulars, taken from the daily journals.

The accounts differ as to her proximity, at the time, to the coast of Jamaica. That given by the "Voz de Cuba" states that the capture was effected more than twelve miles from said coast. Other published accounts give the distance, at the time, as eight and twenty miles, while the "Diario de la Marina," as if foreseeing the gravity of the question, asserts that the chase of the Virginus was commenced in Spanish waters, and the capture effected on the high seas at twenty-three miles from the coast of Jamaica and about sixty from Cuba.

I inclose the substance of a communication received from the United States vice-consul at Santiago de Cuba, which appears to corroborate another opinion, that the Virginus, when captured, was in British waters. It is also stated by the Spanish accounts that the vessel had no

papers or clearance, but the consul at Santiago de Cuba supposes that the steamer was regularly cleared for Colon, (Aspinwall,) and had all her papers in order.

The Tornado with the *Virginus* arrived at Santiago de Cuba on the evening of the 1st instant, and next day at 9 o'clock a court-martial was convened, which appears to have finished its labors at 4 o'clock of the same day, and the sentences of the court transmitted in sealed covers to the captain-general and commandant-general of marine. On the morning of the 4th, and before the news of the capture had reached here, the following were shot: Bernabé Varona, (a,) Bembeta, O. Ryan, Pedro Cespedes, and Jesus del Sol.

There has been no direct telegraphic communication with Santiago de Cuba since 14th ultimo, consequently we must await further and fuller information by mail, the time occupied being usually four days.

I beg to call the attention of the Department to the fact that the consul at Santiago de Cuba desired to communicate by the cable with Kingston, Jamaica, and was not permitted by the authorities to do so. I am, &c..

HENRY C. HALL,
Vice-Consul-General.

[Inclosure 1 in No. 297.]

From the "*Diario*," extra, of the 7th instant.

[Extract.]

THE CAPTURE OF THE VIRGINIUS.

The capture of the *Virginus*, the pursuit of which was commenced in Spanish waters, was effected on the high seas, twenty-three miles from the coast of Jamaica, and about sixty from that of Cuba.

[Translation.]

"VOZ DE CUBA,"
Havana, November 7, 1873.

Some details in regard to the capture of the *Virginus*:

By the steamer *Cienfuegos*, arrived last evening at Batabano, we have received, by the special messenger of the *Voz de Cuba*, the following particulars in regard to the capture of the filibustering steamer *Virginus*. This steamer arrived at Santiago de Cuba at 5 o'clock p. m. of the 1st instant, escorted by the national steamer *Tornado* and the merchant steamer *Cantabro*.

The *Virginus* was captured at 10 o'clock of the previous night, more than twelve miles from the coast of Jamaica. On the night of her arrival great enthusiasm prevailed in the town, and up to a late hour of the night the filibustering steamer was surrounded by a great number of boats, filled with persons attracted by curiosity, and some with music on board.

The *Virginus* had no papers nor clearance of any kind, and on being captured she raised the American flag, after making great efforts to escape from the *Tornado*.

Among the arms found on board are carbines of 18 shots.

At 9 o'clock of the next morning, 2d instant, the court-martial met on board the *Tornado* to try the pirates. It closed at 4 p. m. The sentences have been sent by the *Cienfuegos*, in sealed packages, directed to the captain-general and commandant-general of marine. Immediately after the closing of the court-martial all the pirates, with the exception of Bembeta, Jesus del Sol, and two others, were conducted to the public prison.

Just punishment.

According to a telegram received this moment, 8.30 p. m., Thursday, 6th instant, by his excellency the captain-general, on the morning of the 4th instant, Tuesday, the filibustering chiefs Bernabé Varona, alias Bembeta; Ryan; Pedro Cespedes, styled a brigadier, and Jesus del Sol were shot in Santiago de Cuba.

[Inclosure 2 in No. 297.]

HAVANA, 7, 1873.

Substance of a communication received from the United States consulate at Santiago de Cuba, dated November 2, 1873:

On the evening of the 1st instant, at 5 o'clock, the Spanish war-steamer Tornado entered this port conveying the steamer Virginius as a prize, which was captured at sea with 165 Cubans and foreigners, among them Colonel Ryan, Varona, (alias Bem-beta), Jesus del Sol, Ramon Cespedes, a brother of the President, Carlos Manuel de Cespedes, one of his sons, a brother of Quesada, and several other chiefs.

The reports first received regarding this capture state that the Tornado was under full sail and but little steam when she sighted the Virginius, but all steam possible was made, and the Tornado headed at full speed for the Virginius. This vessel, finding she was pursued, turned to starboard to run away, and commenced to throw overboard a great many boxes to assist her flight, but was overhauled and surrendered without firing a shot.

This morning, better informed, I learn that on the 30th the governor received a telegram from the Spanish consul at Kingston, to the effect that the Virginius was near Marrant Bay, Jamaica. His excellency had an interview with the commander of the Tornado, which had arrived that morning, and which, in consequence, sailed four hours after.

On the 31st October the Virginius was discovered by the Tornado at 2 o'clock p. m., and captured at 10 p. m., four gun-shots and a shell having been fired at her from the Tornado. As soon as the Virginius stopped she hoisted the flag of the United States. The officers sent on board at 10 o'clock at night had the American colors taken down and the Spanish flag hoisted, although the papers and dispatch of the Virginius, in due form, for Colon, were presented to him. Before midnight all the operation of transferring prize-crew, &c., was effected, and the two vessels sailed for Santiago de Cuba, arriving the next day at half past 5 p. m., after eighteen hours of steam sailing, which tends to prove the rumor that the commander of the Tornado had stated, in conversation, that an hour later the Virginius would have saved herself, because she could have entered some port of Jamaica, and leads to the suspicion that the steamer may have been captured in the waters and on the coast of Jamaica, with her papers in order, and duly dispatched for Colon.

It is also rumored that no arms or baggage were found on board, as everything had been thrown overboard, an operation that could not be seen from the Tornado, as it took place at night. It is also rumored that Governor Burriel applied to the marine to have all the prisoners delivered over to him, with the exception of the captain and crew of the Virginius, who are to be sent to Havana at the disposal of the general of marine; and further, that he declared that within twenty-four hours afterward the prisoners delivered to him would be tried and executed here to avoid all complication with the exterior, that is, foreign interference.

In order to be fully informed on this subject, I sent this (Sunday) morning, at 9 o'clock, a telegram to the United States consul at Kingston, thus: "Steamer Virginius captured and brought here. What is her nationality, if cleared under American papers?" But my telegram was objected to and detained by Governor Burriel. I then addressed communications to his excellency, and to the agent of the cable, Robert Mason, esq., copies of which I inclose. I have as yet received no reply from Governor Burriel.

As I have not as yet received any communication from the authorities regarding the captain, crew, or the American citizens there may be on board, I shall feel much obliged if you will inform me how to act in this case.

Great excitement prevails throughout the city, and parties, music, and receptions abound.

Doubting that you may not receive the original, on account of the way they are trying to manage this affair, I send you a duplicate of my letter through the kindness of the French consul.

I am, sir, &c.,

E. G. SCHMITT,
Vice-Consul.

Copies referred to in the foregoing:

U. S. CONSULATE, SANTIAGO DE CUBA,
November 2, 1873.

SIR: It becomes my duty to report to you that this morning, at 9 o'clock precisely, I addressed a telegram to consul of the United States of America, Kingston, Jamaica, which, being detained since half an hour by his excellency the governor of this department, Don Juan N. Burriel, and having asked the cause at the said office, have been

told in reply that the governor declined that it should be sent through by the submarine cable.

Will you be kind enough to inform me if it is understood between the Spanish government and the cable company that the government here has the right to detain or send official dispatches at their pleasure?

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

E. G. SCHMITT,
Vice-Consul.

ROBERT MASON, Esq.,
Acting Agent of the Submarine Cable, Santiago de Cuba.

CUBA SUBMARINE CABLE COMPANY,
Saint Jago de Cuba, November 2, 1873.

SIR: I have had the honor to receive your official dispatch of this day's date, informing me that you had this morning sent to this office a telegram directed to the United States consul at Jamaica, which had been detained by order of his excellency the governor, and inquiring whether his excellency has the right to detain official dispatches at his pleasure.

In reply I beg to inform you that, according to the concession to the company, the government has an absolute right of censure, and of impeding and preventing the sending of such messages as it objects to.

While regretting, then, the delay suffered by your message, I can in no way avoid the same or accept any responsibility therefor, and must consider the question at issue as between your Government and that of Spain, and entirely separate from the responsibilities of the company.

I have the honor to be your most obedient and humble servant,

ROBERT MASON,
Acting Agent.

E. G. SCHMITT, Esq.,
United States Vice-Consul, Santiago de Cuba.

[Inclosure in No. 297.]

HAVANA, November 7, 1873.

List of persons captured in the steamer *Virginus*; crew not included:

Bernabé Varona (a) Bembeta.	Alfredo Lopez.
Pedro Cespedes.	José Ignacio Lamar.
Arturo Mola.	Andrés Villa.
José Diaz.	Andrés Acosta.
Francisco de Porras.	Francisco Castillo.
Juan Marrero.	Benjamin Olazara.
José Madéo.	Salvador Penedo.
Raimundo Pardo.	Enrique Castellanos.
Francisco Gonzalez.	Rafael Pacheco.
José Pelaez.	Alejandro Calvo.
Leonardo Alvarez.	Canuto Guerra.
Julio Arango.	Jesús del Sol.
José Hernandez.	Camilo Sauz.
Nicolas Ramirez.	Leon Bernal.
Ignacio Quintin Beltran.	Emilio Garcia.
Perfecto Bello.	Gil Montero.
Benito Glodes.	Rafael Cabrera.
Lewis Sanchez.	Amador Rosello.
Nicolas Ruiz.	Ignacio W. Tapia.
Juan Alvarado.	Manuel A. Silverio.
José Boite.	Santiago Rivera.
Ricardo Turjillo.	Antonio Gomez.
Ramon Calvo.	Andrés Echevarria.
Augustin Varona.	Luis Martinez.
Silverio Salas.	José Maren.
Domingo Salazar.	Pedro Sario.
Pedro Pajain.	Pedro Saez.
Manuel Padron.	Miguel Saya.
Andrés Cruz Estrada.	Severo Mendive.

Felix Fernandez.
 Juan Soto.
 Manuel Perez.
 José Otero.
 José Antonio Ramos.
 Ramon Barrios.
 Ignacio Valdés.
 José Santisteban.
 Felix Morejon.
 Francisco Pacheco.
 Evaristo Sungunegui.
 Ramon Gonzalez.
 Antonio Chacon.
 Francisco Rivero.
 Sireno Otaro.
 Carlos Pacheco.
 Antonio Padilla.
 Enrique Canals.
 Indalecio Trujillo.
 Domingo Diaz.
 Carlos Gonzalez.
 Oscar Varona.
 Justo Consuegra.

Patricio Martinez.
 Enrique Ayala.
 Manuel Saumel.
 Domingo Rodriguez.
 Luis Rebollo.
 Arturo Rivero
 Carlos Manin.
 William S. Valls.
 Ramon R. D. Armas.
 Manuel Menenses.
 Joseph A. Smith.
 General Ryan.
 Phillips Abecaler.
 William Curtis.
 Samuel Hall.
 S. Gray.
 Sidney Robertson.
 George Winters.
 William Marshall.
 Evan Pento.
 George Burke.
 Leopoldo Rizo.

[Translation.]

As is easy to perceive, neither Santa Rosa nor Quesada figures in this list, which leads us to suppose that there are in it many fictitious names of persons of more importance.

Neither are the names of the crew included. The list comprises names only of the passengers who came to swell the ranks of the insurrection.

From the "Voz de Cuba," (extra.)

HAVANA, November 7, 1873.

No. 721.

Mr. Hall to Mr. Fish.

[Telegram.]

HAVANA, November 8, 1873. (Received at 12.30 p. m.)

Ryan and three Cubans, styled chiefs, shot on fourth, before news of capture reached here. No other executions reported. Claimed rights and considerations under treaty for our citizens, and that no death-sentence be enforced without knowledge of both governments. Telegraph interrupted with St. Jago de Cuba. Some details already sent; others go to-day and will follow.

HALL.

No 722.

Mr. Hall to Mr. Davis.

No. 298.]

UNITED STATES CONSULATE-GENERAL,
 Havana, November 8, 1873. (Received Nov. 13.)

SIR: Referring to my No. 295, of 5th instant, transmitting a copy of a communication which I considered it my duty to address to the captain-general, claiming for such of our citizens as might be found on board

the *Virginus* the rights and considerations to which they are entitled by treaty stipulations, I have now to transmit his excellency's reply, in which it is intimated that the matter is one which does not concern me; that the representatives of the United States in Madrid, and of Spain in Washington, will see that the stipulations of the treaty of 1795 are respected, and that the good relations existing between the two countries will facilitate the solution of any doubt which may arise in this affair.

His excellency does not seem to be aware that the peculiar relations of Cuba with the United States make it indispensable that their consular officer at Havana, in the absence of any diplomatic agent, should have the right of addressing him on other subjects than those of a purely commercial nature.

I have, &c.,

HENRY C. HALL,
Vice-Consul-General.

[Inclosure.—Translation.]

SUPERIOR POLITICAL GOVERNMENT,
SECRETARY'S OFFICE, POLITICAL BUREAU,
Havana, November 7, 1873.

It is a vessel of the Spanish marine which has captured the *Virginus*, and the persons who came on board of the same are subjected to being tried by a competent tribunal.

As soon as the capture of said vessel was brought to my knowledge I telegraphed to the supreme government of the nation, near which the United States have a worthy representative, who, being also acquainted with what has occurred with the *Virginus*, will see, as in like manner will the representative of Spain in Washington, that the stipulations of the treaty of 1795 are respected.

The good relations which happily exist between the United States and Spain will facilitate the solution of any doubt which may arise in this affair.

JOAQUIN JOVELLAR.

The CONSUL OF THE UNITED STATES *in this capital.*

No. 723.

Mr. Hall to Mr. Davis.

No. 302.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 12, 1873. (Received Nov. 18.)

SIR: Referring to my No. 294 and No. 295 of 5th instant, 297 of 7th, 298 and 301 of 8th instant, relating to the capture of the *Virginus* by a Spanish vessel of war, off the coast of Jamaica, I now transmit herewith copies of correspondence received from Santiago de Cuba, to which I respectfully call the Department's attention.

From the statement made by the governor of Santiago de Cuba, in his reply to Mr. Schmitt, the vice-consul, it appears that Ryan did not allege his American citizenship. The consul at Kingston, Jamaica, informs Mr. Schmitt that the *Virginus* was under the flag of the United States, and was regularly cleared at that port for Colon, (Aspinwall.)

Late last evening the news was published of another massacre. It appears that on the 7th and 8th instant the captain and thirty-six of the crew of the *Virginus* and sixteen others were shot.

It must be charitably supposed that these executions took place before orders (if any have been sent) from here could reach Santiago de Cuba for their suspension.

I further inclose an extra "Voz de Cuba," published last evening, containing the statement above alluded to, and respectfully call the Department's attention to the files of "Diario de la Marina," and "Voz de Cuba," transmitted to day, of which I have not time to take extracts or make translations.

I am, &c.,

HENRY C. HALL,
Vice-Consul-General.

[Inclosure 1 in No. 392.]

Mr. Schmitt to Mr. Hall.

UNITED STATES CONSULATE,
Santiago de Cuba, November 8, 1873.

SIR: I addressed you yesterday, and forwarded through the kindness of the French consul the copies of several documents, originals of which I forwarded by mail. I do the same with this present communication, and forward duplicate of a dispatch I sent the commandant-general this morning. You will please excuse this action, as there is so much mystery in this affair, of trials under martial law, and military tribunals in session night and day, that none can tell what may happen to ordinary correspondence.

I now have to inform you, after my mail of yesterday afternoon some one hundred and odd persons of those captured passed from on board of the steamers *Virginus* and *Tornado* in front of my residence on their way to the jail, fastened together by fours. Last night a court-martial was convened at the jail for the purpose of trying Varona a Benbeta. This morning the trial of a number of others, chosen by lot, is still going on.

Early this morning Governor Burriel sent for Ramon Cespedes, the President's brother, and had a secret interview of an hour with him, result not known; but, as I am privately informed, it was to find out whether he could manage the presentation of his brother, the President, and arrange matters without compromising himself, and that he replied that he could with his brother.

Five of the prisoners, namely, Quesada, Jesus del Sol, Ryan, and Harris, were presented to the Spanish officers appointed for their trial and interrogatory. It is rumored that they will be executed immediately, under the responsibility of the commanding general, Burriel, who takes it upon himself until further orders come from the new captain-general, probably for the rest, as certain preparations at the jail look as if the execution might come off to-night or to-morrow at daybreak.

No reply to my communication of yesterday to the general had reached me up to 9 o'clock this morning. I have, therefore, sent another dispatch to the same authority, as per copy inclosed, which may serve you to transmit to the Department of State. As events follow each other so rapidly, I have no time to write to the Hon. Secretary of State.

As you will perceive, I have not been admitted to the jail nor on board, although I have been several times to see about it, but have not as yet (3 p. m.) received any permit to do so, nor any answer whatever from his excellency. Pity that an American war-ship is not here to sustain my claim, and the cable telegraph uninterrupted, that I might inform you of what is going on, although, perhaps, the brigadier would not allow my telegrams to pass; and the cable-agent says he cannot do any better than he stated in answer to my communication to him on the subject, and, consequently, you will yourself be unable to inform me here what you may obtain from the captain-general in regard to this case and in favor of some of these unfortunates. Such proceedings on the part of brigadier-commandante, General Burriel, of not answering official dispatches, ought to be reported to the captain-general.

In case I do not receive a satisfactory reply from his excellency, I shall have to protest against all informalities, and of his excellency, and against the trial of the American citizens detained and imprisoned, for not having been permitted to see them at and during their examination.

I have, &c.,

E. G. SCHMITT,
Vice-Consul.

[Inclosure 2 in No. 302.]

*Mr. Schmitt to General Burriel.*UNITED STATES CONSULATE,
Santiago de Cuba, November 3, 1873.

SIR: I would most respectfully inform your excellency that it has come to my knowledge that the steamer *Virginus*, which was brought into this port at half-past 5 o'clock p. m. on the 1st instant, convoyed by the Spanish war-steamer *Tornado*, as a vessel captured on the high seas, having on board a great many passengers, besides the captain and crew, was cleared from Kingston, Jamaica, and, as I understood that the said steamer sailed under the American colors, I therefore, as the representative of the United States Government at this city and port of Santiago de Cuba, went yesterday morning at 9 o'clock precisely to the office of the Submarine Cable Telegraph Company to transmit a telegram to the United States consul at Kingston, Jamaica, asking the nationality of the steamer *Virginus*, and if cleared under American papers; which telegram was objected to and detained by your excellency, as I had the honor to communicate to your excellency by my letter of yesterday, 2d instant, of which I am surprised at receiving no reply relative to the subject, which under such pressing circumstances would be of great value to the numerous American citizens concerned, and which answer I am anxiously awaiting.

I would also beg your excellency, (having not received any communication from any of the Spanish authorities, and particularly from your excellency, of the event,) considering that I ought to have been notified, and also permitted to call on the American citizens detained at the jail in this city, as well as the captain and crew of the aforesaid steamer, to allow that I be admitted to the jail and on board of the vessels where the latter are detained as prisoners, to enable me to fulfill my duties as consul-representative of the United States Government.

I have, &c.,

E. G. SCHMITT,
Vice-Consul.

[Inclosure 3 in No. 302.]

*Mr. Schmitt to General Burriel.*UNITED STATES CONSULATE,
Santiago de Cuba, November 3, 1873.

SIR: I would most respectfully inform your excellency that until this hour, half-past 6 p. m., November 3, I have not had the honor to receive any reply from your excellency to my official communications of 2d instant and of this morning, referring to a telegram directed to the United States consul at Kingston, Jamaica, detained by your excellency and not forwarded, and also to not having received any communication from any of the Spanish authorities, and particularly from your excellency, of the affair of the steamer *Virginus*, which was, according to the last reports published in the newspapers and publicly known, in the neighboring island of Jamaica, as a national American steamer, under the flag of the United States of America, with all her papers and clearance legally authenticated and sealed with the arms of the said United States; and to my request to be permitted to call and communicate with the American citizens, captain, crew, and passengers of the aforesaid steamer, either in jail or on board of the vessels in port, having to fulfill my consular duties as the representative of the American Government, and according to the treaty between Spain and the United States of the year 1795.

And as I have not been in any way or manner attended to by your excellency, in consideration of my reiterated requests in this matter, and not having admitted any of them, neither knowing what has been done as to the rights of the American citizens, as well as those of the captain, crew, and vessel, in accordance to the aforesaid treaty between Spain and the United States, article seventh, I must respectfully protest, your excellency, against the authorities and the Spanish government, as I, in the name and as representative of the United States, do solemnly protest against the Spanish government, and all and every person or persons, for their performances, irregularities, trials, and condemnations that may occur to any and every American citizen or citizens concerned, detained, and imprisoned, for all damages, prejudices, whether personal or otherwise, which may happen to any or every one of the American citizens who were on board of the American steamer *Virginus*, as well as to all interests or value of the aforesaid steamer which may be claimed by her owners, or whomsoever interested; all of which shall be transmitted to the consul-general at Havana and to the Department of State at Washington.

I am, &c.,

E. G. SCHMITT,
Vice-Consul.

[Inclosure 4 in No. 302.—Translation.]

General Burriel to Mr. Schmitt.

[SEAL.]

POLITICAL GOVERNMENT OF THE
Eastern Department of the Island of Cuba.

I have received your communications, one dated the 2d instant and the remaining two others the 3d instant; the first inquiring if it was true that a telegram had been detained by my orders which you had addressed to the United States consul in Kingston, Jamaica, asking information as to the nationality of the steamer *Virginus*, seized on the high seas as a pirate by the Spanish war-steamer *Tornado*. In my desire to correspond duly to the exquisite zeal which you show in this matter I would have replied at once to your communication, but as I received it precisely at the moment of important and peremptory affairs, to which I had to devote myself exclusively; further, the past two days were holidays, upon which the officials do not come to the offices, being engaged, as well as every one else, in the meditation of the divine mysteries of All Saints and the commemoration of All Souls days, as prescribed by our holy religion; consequently, it was impossible for me, until early this morning, to comply with your wishes, as well as my own, to answer your communications.

Upon doing so, I have to inform you that, although I regretted to do so, I gave the order to the chief of the telegraph station, to which you refer, to detain your telegram, acting thus by virtue of the powers granted me by the regulations, according to which this service is performed on this island and approved by government.

Regarding the first of the two communications which I received yesterday from your consulate, in which you are pleased to state your surprise at not having received an answer to that of the previous day, and especially for not having been called to the jail, nor notified of the capture of the pirate vessel, which, as you have heard, was sailing under American colors, and the interests of numerous American citizens therein concerned, you undoubtedly referring to the so-called passengers of the *Virginus*, I have to state in reply, that you ought not to have been surprised at not receiving my answer as much on account of the short period of time between one and the other communication as for the circumstances which prevented my doing so, as I have already stated.

And as to being surprised at not having been notified, I regret on that account the concern which you show, as although in effect the *Virginus* sailed under American colors, (a phrase not very intelligible for me, supposing you mean to say that she sailed under cover of the flag of the nation you represent, as, in this sense, there are as many American colors as there are nations in both continents of the New World, and even in some of the islands,) you will permit me to say in reply that I could not, for my part, decide upon the act of notification you desired. In the first place, every one knows, for the fact was public and notorious, in Europe as well as in America, that the steamer *Virginus*, destined by its successive and numerous owners to aid the insurrection in this island, bringing to it, secretly and piratically, arms, munitions of war, and men, was accustomed to sail under all colors, making use of the national distinctions of different nations, even those of Russia, China, or Japan, according as their wicked, piratical plans might require, although more often covering themselves with the respectable flag of the United States, inferring thereby, in my opinion and in that of honorable men of all civilized countries, a grave insult to the noble nation you represent, and whose liberality has been so abused by the said vessel. Besides, as the vessel and her crew are now held to the action of a court, the only competent authority to judge of the convenience, justice, and necessity of giving information to a foreign consulate concerning their proceedings, my authority was and is not sufficient to decide on the convenience and necessity of doing as you requested.

Neither could I foresee your desire to repair with such haste to the jail where the prisoners were incarcerated, much less that you desired to do so, showing an officiousness so marked, when you had received from none of them any remonstrance whatever, which they would have made at once, through my conduct, if their conscience had permitted them to even suppose that they were innocent and worthy of the protection of your vice-consulate, undoubtedly impelled thereto on this occasion for unknown and suspicious purposes.

These purposes I may suppose were only those of coming to the defense of your countrymen, if they were unjustly molested, or their lives or property in danger, and such noble and honorable intentions would exalt your conduct; but, as upon the occasion to which you refer in your communications, nor upon any other, has there been any reasonable motive of complaint or of alarm to be entertained by any foreign subject, principally North American, who has observed the respect due to Spanish laws, to the tranquillity of the country, and to the preservation of the public peace, conditions which every man of honor should comply with in order to live in a foreign country, you will permit me to state, also, that although in the crew and among those whom you call passengers by the *Virginus* there may be one or more American citizens, the mere fact of being found in company of the most conspicuous chiefs of the

insurrection which desolates this island, would be sufficient, if it were not known that some of them, erroneously supposed to be of the former, were comprised among the latter named, would be sufficient for them to lose, in conformity to international law, all kind of protection whatever from the countries from which they came, because these countries, if they insist upon defending criminals of this class, will incur in the responsibility, at least moral, which the law is in duty bound to exact of them.

Furthermore, you may address to whomsoever you please all the protests you deem necessary, as you state and do in your third communication, as I am satisfied on my side that the same are and will be unfounded for the fact to which you refer in your three communications. And so unfounded are they, that Mr. O'Ryan, for whom you came in person to speak with me and obtain permission to witness the will he desired to make as a North American citizen, as you stated and incorrectly assured me, has himself confessed he was a British subject and born in Canada.

Such conduct, especially after you were advised by the fiscal that Mr. O'Ryan was an Englishman, obliges me to apply to the government, and propose that your exequatur to perform the duties of your vice-consulate may be withdrawn, as an officer who addresses protests so slightly founded, and who, after that, attempts to surprise the intention of the Spanish authorities, accustomed to act with the rectitude and loyalty known by all, cannot help compromising the honor of the country he represents and being the cause of vexatious questions between friendly nations which should mutually respect each other.

God preserve you many years.

CUBA, 4th November, 1873.

JUAN N. BURRIEL.

No. 724.

Mr. Hall to Mr. Fish.

[Telegram.]

HAVANA, November 13, 1873.

The consul at Santiago did everything possible to save lives and secure the rights of our citizens under treaty. His right of protest was ignored. * * * * *

Before news of capture reached here, first four were shot. Before instructions to the consul could reach Santiago de Cuba, those reported yesterday were also shot. Evidently it was determined to carry out the massacre before instructions could reach there from Spain to spare life.

HALL.

No. 725.

Mr. Hall to Mr. Davis.

No. 304.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 14, 1873. (Received Nov. 21.)

SIR: I have to acknowledge the receipt, yesterday evening, of the following telegram:

WASHINGTON, November 13.

Repeat from "those reported" to end, in telegram to-day.

FISH.

To which I replied this morning as follows:

HAVANA, November 14.

Substitute the following: "Before instruction to the consul could reach Santiago de Cuba, those reported yesterday were also shot. Evidently it was determined to carry out the massacre before instructions could reach there from Spain to spare life."

I also transmitted to-day the following telegram to the Department, giving the substance of a communication received yesterday evening from the captain-general, (copy and translation of which I inclose :)

HAVANA, November 14.

The superior political governor, replying to my communication asking for confirmation or denial respecting the execution of captain and crew of *Virginius*, refers to his communication of 7th instant, and says, substantially, that the facts are transmitted to the government of Spain, near which the United States has a representative, from whom you will receive, without doubt, all the information asked for in my communication.

HALL.

The communication above referred to is in reply to mine of 13th instant, a copy of which accompanied my No. 303 of 12th instant, and I beg to call the Department's attention thereto, as going to confirm much that I stated in said dispatch No. 303.

I am, &c.,

HENRY C. HALL,
Vice-Consul-General.

[Inclosure.—Translation.]

[SEAL.]

SUPERIOR POLITICAL GOVERNMENT,
SECRETARY'S OFFICE, BUREAU OF POLITICAL AFFAIRS.

I have received your dispatch dated to-day, informing me that you had telegraphic instructions from the Secretary of State of the United States, asking confirmation of the news referring to the steamer *Virginius* and to its crew.

You are already informed of the contents of the dispatch which, referring to this subject, I addressed you on the 17th instant. Rest, therefore, completely assured that everything relating to this subject, and whatever may result from the proceedings instituted before the tribunals of justice, I duly transmit to the government of this nation, near which that of the United States has its duly accredited representative, and through whose authorized medium it will undoubtedly receive all data whatever referring to your last attentive communication, considering the cordial and friendly relations which exist between both countries.

JOAQUIN JOVELLAR.

HAVANA, November 12, 1873.

The CONSUL-GENERAL OF THE UNITED STATES in this city, &c., &c.

NOTE.—The foregoing communication, although dated the 12th November, 1873, was not received until the evening of the 13th November, 1873.

HENRY C. HALL.

No. 726.

Mr. Hall to Mr. Davis.

No. 355.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 14, 1873. (Received Nov. 21.)

SIR: Referring to my No. 302, of 12th instant, and the copies of the correspondence therein contained, passed between the vice-consul of the United States at Santiago de Cuba and the commandant-general of that district, relative to the case of the *Virginius*, I now transmit the continuation of the same correspondence, and respectfully call the Department's attention thereto as clearly showing that Mr. Schmitt, the vice-consul, fulfilled his duty in the premises as far as was in his power.

I am, &c.,

HENRY C. HALL,
Vice-Consul-General.

[Inclosure 1 in No. 305.]

*Mr. Schmitt to General Burriel.*UNITED STATES CONSULATE,
Santiago de Cuba, November 5, 1873.

SIR: I have had the honor to receive your excellency's communication of yesterday's date, the contents of which fill me with surprise and profound regret that my previous dispatches to your excellency and motives which caused them should have been so misconstrued by your excellency as to lead even to personal imputations upon my character.

In this country, as in every other, even the greatest of criminals have lawyers assigned to their defense, without, in the event of their condemnation, the reputation of such lawyers suffering therefrom; and I, who represent a foreign country here, have an absolute duty, when I hear that any of the citizens of that country are in any trouble, to succor the same where practicable, defend them if their case admits of defense, and in the last extremity afford them all alleviation or consolation as lies in my power, and a right to do so without identifying myself with the citizens in question and their actions or opinions, or exposing myself to the suspicions and insinuations of your excellency.

Your excellency's communication barring me from all interference on behalf of my fellow-citizens, I must beg your excellency will, at all events, allow me to proffer a few remarks in my own defense.

I should have been the last person to disturb the important duties of your excellency, and the religious meditations which your excellency's subordinates were indulging in, had it not been that I considered the case a pressing one, and imagined that where there was sufficient time to censure and detain my telegram, there might have been also time for a few lines of explanation, with the additional motive of my second dispatch, that I observed that the circumstances which your excellency enumerates were no hindrance to the dispatch of other business connected with the steamer.

Due to a misconception, though not a maltranslation, my meaning with regard to colors has not been correctly conveyed to your excellency. I used the word in its acceptation of flag, and not with reference to the different distinctive shades which form the national emblems of countries.

I shall, therefore, abstain from saying anything further on this point, than that it seems to me, considering that the *Virginus* was flying the United States flag at the time of her capture, that she claimed to be a United States merchant-steamer, and her papers as such were surrendered by her captain to the boarding officer from the steamer *Tornado*, it would have been a delicate attention on the part of your excellency to have informed me thereof, and that the use of such flag and papers was an abuse on the goodness of the country which I represent, in order that I might have brought the same to the notice of my Government, and have been spared the necessity of telegraphing to Jamaica, and the disagreeableness to which said telegram has given rise.

As regards the protest I directed to your excellency, my duty to cover my responsibility in case of a reclamation was so manifest—and a protest is not subsequently authorized by such reclamation—so entirely inoffensive, that I cannot for a moment suppose your excellency can take exception to my action in this matter.

With regard to my interview with your excellency, when I asked permission to see O'Ryan, and when your excellency's treatment of me in your excellency's own residence was not what I should have expected from the amiability and hospitality of your excellency, as your excellency's remarks contain a personal imputation on my character, accusing me of an intention to take your excellency by surprise and obtain an undue advantage by dishonorable means, I can only deny most emphatically even having harbored such intentions or attempted to put them into execution.

Finally, I note your excellency's intention to apply for the revocation of my exequatur, and while ignorant of any cause given by me therefor, I can only assure your excellency that, my conscience being perfectly clear in the question, and having acted honorably and as I considered for the best, the result of your excellency's application is to me a matter of profound indifference.

I have, &c.,

E. G. SCHMITT.

[Inclosure 2 in No. 305.—Translation.]

*General Burriel to Mr. Schmitt.*POLITICAL GOVERNMENT OF THE EASTERN DEPARTMENT
OF THE ISLAND OF CUBA,
November 7, 1873.

I have received your communication of the 5th instant, in reply to that from this government of the previous day, relative to those you had already addressed me regarding

the capture of the pirate vessel *Virginius*. I am sorry at having caused you the profound regret you mention in consequence of my reply, or the interpretation which you say was given to your communications, for which no fault can be imputed to me, as I did but my duty, just as you purposed to do yours, in the matter. The interpretation given to your dispatches could be no other, as, officially and in writing and investing the act with a solemnity which could not be allowed to it, you addressed yourself to this government, making inquiries to which you could have verbally been answered, had you pleased to call on me in person, because the matter was very plain, and in my opinion did not deserve the honor of a dispatch, unless you did so purposely, endeavoring to give it more importance than it really had. After your first communication, making the inquiry to which I refer, you addressed me two others on the same day, exacting explanations regarding affairs the gravity of which could not but impose upon me the most prudent reserve; and as you were desirous of obtaining with unnecessary haste a reply which could not then be given, you became alarmed, entirely without reason, and protested against my conduct, against the action of the courts who had charge of the matter to which you refer, and this without possibly knowing or being informed what was such action. As I am always disposed to receive at my office any person claiming the aid of the authorities, especially the consul and vice-consuls resident in this city, you will understand that the means of which you endeavor to avail yourself were not the most suitable to induce belief in the sincerity of your acts; for if you had called upon me and verbally set forth your doubts and apprehensions, I would have been pleased to attend to your wishes within the limits of prudence and convenience which my office and the present circumstances impose upon me.

Far from having put any impediment to the defense of your citizens residing in this city and in all this department, in nowise have I prevented you from doing so, limiting myself in my communications to express the surprise which your persistent officiousness caused me, asking to interfere in affairs to which no one had called your assistance, and which did not treat of citizens of the United States who might be under the protection of your vice-consulate, but of chiefs, rebels to the Spanish government, of armed men who came to swell the ranks of the insurgent parties of this island, and of the crew of a steamer seized on the high seas as a pirate, and subject by this act alone to the immediate action of the courts of justice, in accordance to the laws regarding piracy ruling in this island, and of which you are undoubtedly informed.

If the marine court which tried the pirate crew had had the slightest doubt as to the status of the vessel, and had it not considered itself absolutely and exclusively competent to try it, the same court would have addressed you through my official medium, or some one of the prisoners would have done so if all of them had not been confessedly convicted of the crime of piracy. All these explanations you could have obtained, as I have before stated, if, with the desire to be out of doubt, you had called upon me; but the way in which you addressed me, and the expressions you used, could not but otherwise make me believe in a desire on the part of your vice-consulate to give the question a character of gravity it did not possess.

No one, therefore, has objected to your making the defense of your citizens; no one has excluded you from any interference in favor of your citizens; no one has interpreted your words in a sense different to their meaning, as that of "the American colors" was taken to mean the North American flag, as you afterward stated; and, finally, no one has considered himself with any moral authorization whatever to believe that the steamer *Virginius* was a merchant-vessel, which lawfully used the United States flag, as her character of a pirate was public and notorious all over the world; consequently, your communication, to which I now reply, however flattering the explanation you give to your acts, has no foundation respecting the interpretation you are pleased to give to my phrases and to the conduct I have observed in this motive.

As to the reception I gave you at my residence when you called to see me, after addressing me three communications, you will excuse my saying that the reception I made you was as polite, respectful, and affable as usual, and so much so, you cannot forget, that I granted you the permission you asked for, to witness the execution, before a notary, of the will of Mr. O'Ryan, in the belief on my part that you had, if not the absolute certainty, at least the moral conviction, that he was a citizen of the United States, and that you had been called for by him, understanding you were the consul of his nation. But as you said this in my presence, after being told at the jail, whither you had repaired before seeing me, by the fiscal of the case, the best-informed person in the matter, and been assured that Mr. O'Ryan was not an American citizen, but an Englishman, according to his own declarations, which circumstance you concealed from me, through inadvertence or otherwise, it was then that I felt obliged, by my position, by the dignity of my office, and by the importance of the concession I had made, in virtue of assertions which had already been answered officially by proper persons, to express the surprise your conduct caused me, which might be all the loyal you wish, but which appeared suspicious, as wanting in sincerity and frankness; and you could rest assured that if you had asked me in a private and friendly manner to see

Mr. O'Ryan or any other of the prisoners, permission would have been granted in the act, as was done to various persons; but, exacting officially, and in demand of a right which did not exist, it was impossible such could be granted. This is all I have to say in reply, reserving to his excellency the superior political governor the decision respecting the revocation of your exequatur, which I have asked for, much more when this is so indifferent to you, as you state; as to the contrary I should have a real feeling of regret, as, aside from the question which occasions these replies, I have ever endeavored to keep up with you, as with the rest of the consular corps, the most respectful and cordial relations.

God preserve you many years.

CUBA, November 7, 1873.

(Signed)

The UNITED STATES CONSUL in this city.

JUAN N. BURRIEL.

[Inclosure 4 in No. 305.]

Commander Brandavis to Mr. Schmitt.

COMMANDANCY OF MARINE OF THE PROVINCE OF CUBA.

Being informed of your communication of yesterday evening, in which you are pleased to inform me that you protest against all the proceedings with reference to the steamer *Virginus* and with the persons detained or imprisoned on her, I have only to state to you that, considering that you are well informed of the most lawful motives which induced the man-of-war *Tornado* to seize the *Virginus*, finding her near and in direction to the lee-coast of this port, with a large expedition on board of men and contraband of war to aid the insurrection existing in the eastern part of the island, against the national integrity, wanting, besides, all the documents necessary for a merchant-vessel, that I much regret that you should seek to make reclamation for the impunity of this offense, condemned by all nations, and also further by the laws and decrees published by the superior authorities of this island.

I have only to inform you that the vessel and the persons found on board are in fact held to the action of the court of justice, and that it is impossible for me to attend to any kind of reclamation which may impede or oppose the action of these.

God preserve you many years.

CUBA, November 6, 1873.

RAMON BRANDAVIS.

The VICE-CONSUL of the United States of America in this city, &c.

No. 727.

Mr. Hall to Mr. Fish.

[Telegram.]

HAVANA, November 12, 1873. (Received Nov. 12.)

Morning papers publish statements, apparently from official source, that the captain of the *Virginus*, thirty-six of the crew, and sixteen others, were shot on the 7th and 8th instant.

Consul at Kingston reports that vessel was under United States flag, papers regular and cleared for Aspinwall.

HALL.

No. 728.

Mr. Fish to Mr. Hall.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 12, 1873.

Ask of authorities for confirmation or denial of reported massacre and outrage upon captain and crew of *Virginus*. Report at earliest possible moment.

FISH.

No. 729.

Mr. Fish to Mr. Hall.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 12, 1873.

You will demand of authorities the most ample rights secured by treaty or law of nations for all American citizens on the *Virginus*. Instruct consul at Santiago to see that they have counsel and advocates, and that he report as to all judicial or other proceedings.

FISH.

No. 730.

Mr. Hall to Mr. Fish.

[Telegram.]

HAVANA, *November 15, 1873.* (Received Nov. 15—11 a. m.)

The executions reported 12th instant fully confirmed by British consul at Santiago and consul-general here. Sixteen of crew were British subjects, and were executed notwithstanding the intervention of the governor of Jamaica and the British commodore.

Papers yesterday published accounts of the execution of fifty-seven other prisoners, and that only some eighteen will escape death. Nothing official received.

HALL.

No. 730½.

Mr. Hall to Mr. Davis.

No. 2.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 15, 1873. (Received Nov. 21.)

SIR: Referring to dispatch No. 305 of 14th instant, and series from this consulate relating to the case of the steamer *Virginus*, I now accompany a copy of a communication addressed by the commandant-general of the eastern department to the British vice-consul at Santiago de Cuba, in reply to his request in behalf of the British commodore at Kingston and the governor of Jamaica, to suspend the execution of the British subjects found on board that steamer. I regret that I am unable to send the Department a translation of this important document.

The British consul-general at this place has communicated to his government substantially the following:

Chase begun and capture effected on the high seas. Sixteen British subjects of the crew of the *Virginus* were shot 7th instant at Santiago de Cuba, in spite of the governor of Jamaica and the commodore's protest to the governor, through the vice-consul. Her Majesty's ship *Niobe* arrived there the next day. Seven British subjects remain, six of whom are under age.

In consequence of the foregoing information, furnished me by that officer, I telegraphed the Department this morning as follows:

HAVANA, November 14.

The executions reported 12th instant fully confirmed by British consul at Santiago de Cuba and consul-general here. Sixteen of crew were British subjects, and were executed notwithstanding the intervention of the governor of Jamaica and the British commodore. Papers yesterday publish accounts of the execution of fifty-seven other prisoners, and that only some eighteen will escape death. No official report received.

In an inclosure I transmit the names of the crew of the *Virginus*; those marked with an asterisk (*) are the names of the British subjects executed.

I have no other information to add to-day other than that I have nothing later than the 9th instant from Santiago de Cuba, and nothing to confirm the report of the execution of the fifty-seven of the prisoners said to have taken place on the 10th instant, but I have no doubt whatever of its truth.

I am, &c.,

HENRY C. HALL.

[Inclosure.]

List of names of the crew of the steamer Virginus.

	Positions.
Joseph Fry	Captain.
William Baynard	1st mate.
James Flood*	2d mate.
J. C. Harris	3d mate.
John N. Posa	Surgeon.
B. P. Chamberlain	1st engineer.
Charles (4) Knight	2d engineer.
Eduardo Bay	3d engineer.
J. S. Trujillo	4th engineer.
Jact Williamson	1st asst. engineer.
Henry King*	2d asst. engineer.
Porfirio Coroison	Purser.
P. Alfaro	Asst. purser.
Thomas Grigg*	} Firemen.
Frank Good*	
Paul Runer	
Bamey Herald*	
H. Knight	
James Samuel	Oiler.
Henry Frank*	Coal-passer.
James Read*	Coal-passer.
Samuel Card*	Coal-passer.
John Brown	Coal-passer.
Alfred Haisel*	Coal-passer.
W. J. Prince*	Coal-passer.
George Thomas*	Coal-passer.
Exaquiél Durham	Coal-passer.
Thomas Walter William*	Steward.
Simon Broome*	2d steward.
Leopold La Rose	Cabin-boy.
Antoni Constantine	Cabin-boy.
Charles de Brose	Cabin-boy.
A. Arsi	Store-keeper.
William Denton	Engineer's servant.
Alfred Parker	Quartermaster.
William Rose*	Seaman.
William Wilson	Seaman.
Thomas Lindgy	Seaman.
John Freeman	Seaman.
John Stewart	Seaman.
Henry Bond*	Seaman.
George Thompson*	Seaman.
John Pothemout	Seaman.
Edward Scott	Unknown.

N. B.—Those marked with a * are the names of British subjects executed.

No. 731.

Mr. Nunes to Mr. Davis.

No. 5.]

UNITED STATES CONSULATE,
Kingston, Jamaica, Nov. 15, 1873. (Received Dec. 5.)

SIR: I have the honor to inform you that the American steamer *Virginus*, which entered at this consulate on the 10th day of July last, after a stay of three months and thirteen days cleared on the 23d ultimo for Port Limon, Costa Rica. On the morning of the 5th instant I received a brief telegram from E. G. Schmitt, esq., vice-consul at Santiago de Cuba, (see inclosure No. 1,) informing me that the *Virginus* had been captured and taken thence, (to Santiago;) also requesting her nationality, and "if cleared under American papers." I replied by telegram, (see inclosure No. 2,) stating that the *Virginus* had produced American papers at this consulate, and that she had been entered and cleared as American. On the morning of the 7th, at 8 a. m., I received a note from the colonial secretary, (see inclosure No. 3,) informing me that his excellency the governor of Jamaica had telegraphed the British consul at Santiago, suggesting a strong demand for "suspension of execution, at least pending a formal trial, in the case of all who claimed to be British subjects."

Her Majesty's steamer of war *Niobe* had been previously dispatched, on the evening of the 6th instant, for Santiago, for the purpose of protecting British subjects on board of the *Virginus*. At 10 a. m. on the 7th I telegraphed Mr. Schmitt, (a copy inclosed, see inclosure No. 4,) informing him that the *Niobe* had left, and requested him to ask the commander to protect American interests connected with the *Virginus*, in absence of any United States war-steamers. At 12 m. on the 7th I telegraphed Commander Cushing, of the United States steamer *Wyoming*, at Aspinwall, (see inclosure No. 5,) giving him such facts as I was in possession of; also informing him that Americans might require protection at Santiago. The Department will observe that I left it entirely to the discretion of Commander Cushing whether he would proceed to Cuba or not. On the 8th, more information was received in Kingston as to shooting of certain Americans in Santiago. I immediately telegraphed Commander Cushing (see inclosure No. 6) to that effect, also informing him that information was of such a character as to point to the necessity of American steamers of war being at Santiago. On the afternoon of the same day, the eighth, a telegram passed through this consulate, (see inclosure No. 7,) from Commander Cushing to vice-consul at Santiago, inquiring if the *Virginus* was captured on the high seas, and if the lives of the captain and American crew were threatened; also soliciting more facts. Having in my possession the information required by Commander Cushing, I telegraphed them to him, (see inclosure No. 8,) at the same time transmitting his telegram through to Santiago.

On the morning of Sunday, the 9th, the consul's reply to Commander Cushing was received, (see inclosure No. 9,) but too late to be forwarded by the Aspinwall cable, and it did not go forward until 10 a. m. on Monday, the 10th. On sending the telegram to Commander Cushing, I telegraphed to Mr. Schmitt, at Santiago, informing him that his telegram to Commander Cushing had not been transmitted until 10 a. m. on that morning, and requesting further particulars for transmission, (see inclosure 10.) To that he (Mr. Schmitt) replied, (see inclosure No. 11,) informing me that he had no more particulars to transmit since his last telegram. On the same evening (the 10th) I received a telegram from

Commander Cushing, (see inclosure No. 12,) instructing me that he was coaling, and would leave that evening or early next morning.

On the morning of the 11th I received per French mail-steamer *Desirade* a communication from Mr. Schmitt, (see inclosure No. 13,) giving particulars of the matter, and suggesting that I might telegraph to St. Thomas for a United States steamer of war, which I immediately did. (See inclosure No. 14.) To that I received a reply on the same day, (the 11th,) informing me that there were none there or in the neighborhood. (See inclosure No. 15.)

I answered Mr. Schmitt on the 13th by Her Majesty's steamer *Woodlark*, which left here for Santiago on that evening.

The United States steamer *Wyoming* arrived here yesterday afternoon from *Aspinwall* for coals, on her way to Santiago. Upon her arrival I telegraphed Mr. Schmitt. She took on her supply of coals and left again for Santiago at 10.30 a. m. this morning.

Capt. Joshua N. Rowe, of the American schooner *Village Belle*, of Savannah, Ga., had informed me that he had been boarded by the Spanish steamer of war *Tornado* on the 31st October, and that he had not lost sight of her during the day, and again saw her and another steamer chasing a steamer answering to the description given him of the *Virginus*, and that he was then forty miles from Santiago, steering for Jamaica—that was at sundown—and should the foremost vessel have been captured at 10 p. m. on the night of the same day she could not have been less than seventy miles from the coast of Cuba. I informed Commander Cushing, who thought it important that Captain Rowe should make a sworn statement, which I have taken, and inclose a copy herewith. (See inclosure No. 16.)

The Department will see that I have used my best endeavors for the protection of American lives in this matter, and I trust my action herein will give satisfaction to the Department. The charges for telegrams I will include in my quarterly miscellaneous-expense account, or make a special account for them, as the Department thinks fit.

Any other information that I may receive relative to the *Virginus* I will immediately transmit.

I have the honor, &c.,

ROBERT NUNES.

[Inclosure 1 in No. 5.]

Mr. Schmitt to Mr. Nunes.

Steamer *Virginus* captured; brought here. What is her nationality if cleared under American papers?

[Inclosure 2 in No. 5.]

Mr. Nunes to Mr. Young.

Virginus produced American papers at this consulate; entered and cleared at consulate as American.

[Inclosure 3 in No. 5.]

Mr. Young to Mr. Nunes.

10 P. M. November 6, 1873.

SIR: With reference to the reported capture of the steamship *Virginus* the governor desires me to acquaint you that he has caused the following message to be sent to the British consul at Santiago de Cuba:

"Governor of Jamaica does not believe, unless judicial condemnation has taken

place, that *Virginus* is a pirate. If not a pirate the shooting of any British subjects for being on board cannot be lawful. British subjects may have been shipped here as crew or passengers, and, as *Virginus* was not armed, and carried from Jamaica no war-like munitions, they may have been ignorant that the vessel was not peacefully bound for Limon Bay, for which port she cleared. Governor suggests a strong demand for suspension of execution at least, pending a formal trial, in the case of all who claim to be British subjects."

I have the honor, &c.,

WILLIAM A. S. YOUNG.

[Inclosure 4 in No. 5.]

Mr. Nunes to Mr. Schmitt.

NOVEMBER 7, 1873.

English war-steamer *Niobe* left for Santiago last night 7 o'clock. In absence of American steamer ask her captain to protect American interests connected with *Virginus*.

[Inclosure 5 in No. 5.]

Mr. Nunes to Captain Cushing.

NOVEMBER 7, 1873.

Intelligence has been received consigned that American steamer *Virginus* was captured on the high seas by the *Tornado* on the 31st ultimo. Ryan, an American, shot; others expected to be similarly treated. *Niobe* left here last night to protect British subjects. I learn there is no American war-vessel in Santiago, and therefore inform you, as it appears necessary to me that American lives might require protection. Consul Santiago telegraphed me, 5th, *Virginus* captured, carried there; requested nationality. Please reply.

[Inclosure 6 in No. 5.]

Mr. Nunes to Captain Cushing.

NOVEMBER 8, 1873.

Americans taken in the *Virginus* have been shot at Santiago; consul was not permitted to see them; strong letters have passed; telegrams are subject to strict scrutiny; but information is of such character as to point to the necessity of American steamers of war being at Santiago.

[Inclosure 7 in No. 5.]

Captain Cushing to Mr. Schmitt.

NOVEMBER 8, 1873.

Was the *Virginus* captured in Cuban waters or on the high seas? Are the lives of the captain and American crew threatened? Have you telegraphed to the United States Government? I want more facts.

[Inclosure 8 in No. 5.]

Mr. Nunes to Captain Cushing.

NOVEMBER 8, 1873.

Your telegram to consul Santiago seen by me. By schooner from Santiago I learn *Virginus* captured in neutral waters. Americans positively have been shot.

[Inclosure 9 in No. 5.]

Mr. Schmitt to Captain Cushing.

Virginius captured on high seas, 31st October, ten o'clock night; brought here 1st November, five o'clock, evening.

Four shot on 4th. Yesterday Captain Fry and thirty-six others, mostly crew. Twelve this morning. No telegraphic communication with the States or Havana. Wrote consul-general; no reply yet. No American war-vessels about.

[Inclosure 10 in No. 5.]

Mr. Nunes to Mr. Schmitt.

Your telegram of Saturday to Cushing received Sunday, too late for Colon cable. It goes forward at 10 this morning. Supply further particulars for transmission with former telegram. Do so at once.

[Inclosure 11 in No. 5.]

Mr. Schmitt to Mr. Nunes.

Nov. 10, 1873.

No communications received from home, nor particulars since last.

[Inclosure 12 in No. 5.]

Captain Cushing to Mr. Nunes.

Am now coaling; will leave to-night or early to-morrow morning for Santiago.

[Inclosure 13 in No. 5.]

Mr. Schmitt to Mr. Nunes.

Nov. 10, 1873.

SIR: Doubtless you are aware of all that the Virginius, Captain Fry, crew, and passengers have gone through; they have been captured at eighteen miles to Morant Bay, at 10 o'clock, night, 31st October, brought here 1st November, 5 o'clock, evening; confined, that nobody could communicate with them; some one hundred and odd were brought to prison; captain and crew kept on board the Spanish man-of-war; trials were going on, as also condemnation, without admitting that they were very desirous to see their consuls, which they were always refused; no letters came to hand of any of them, only a few moments before the Captain Fry and crew being shot.

I would have been glad if his excellency the governor had let my telegram to you through on the 2d inst.; but refused, objected, and detained the same until the 4th, evening, as you might have had chance to send same abroad, inquiring either at Aspinwall or St. Thomas of any American United States steamship of war, as I supposed you have done with Wyoming, procuring to be furnished with all information, which I have telegraphed to Captain Cushing, and hope to see him soon here, as we have had no communication with to Havana and the United States of America only by steamer, and that three of the regular mail-steamers been lost. Since only last Wednesday we came by the south to two a week. One of them arrived last night, and did not bring any letter from consul-general in answer to the event communicated on the 2d; probably by the boat to arrive the 12th will certainly hear and receive instructions, (as I have been acting to my own knowledge and what my good friends informed me of.) I was introduced to jail by the request of Captain Fry at 2 o'clock, 7th inst. Took his declaration and protest. Virginius was captured on high seas, and will certainly create great difficulties to the Spanish government, which they deserved. Captain kept all energy to the last; was shot, and died like a brave marine. Alfaro and great many others same. I do not wish that this be published in any newspapers

Among the letters handed to me at the time of the execution and after, herewith one for you from Fry, and another for Prescott. He has also wrote to the President of the United States of America, and several of his friends. I was shamefully received by H. E., when having heard whilst O'Ryan in Capillo, night, asked to see me, called

to have permit to see him in jail, as he wanted to make his will, was refused, and had heard all his exasperated cries so as to be heard from the square. All of which, as also having set a guard of three soldiers at the door of my residence, where I keep the United States consulate office, half an hour previous before the *cortége* passed, as I live little below the prison, all what is communicated to consul-general Havana and Department of State.

I have the honor, &c.,

E. G. SCHMITT,
Vice-Consul.

[Inclosure 14 in No. 5.]

Mr. Nunes to Mr. Simmons.

Nov. 11, 1873.

Send war-steamer, if any at St. Thomas, immediately to Santiago; *Virginius* captured, high seas, 31st October; captain and crew executed 7th. Wyoming left Colon this morning for Santiago. Reply.

[Inclosure 15 in No. 5.]

Mr. Simmons to Mr. Nunes.

Nov. 11, 1873.

No war-steamers; nor in the neighborhood.

[Inclosure 16 in No. 5.]

Deposition of Joshua N. Rowe.

Nov. 14, 1873.

Joshua N. Rowe, of Rockland, Maine, after being duly sworn, deposes and says that he is master of the American schooner *Village Belle*, of Savannah, Georgia; that on the 27th day of October, A. D. 1873, he anchored at St. Iago de Cuba. The Spanish war-steamer *Tornado* anchored near his vessel. He sailed on the 30th. During the night it was calm, and up to 9 a. m. 31st October he had made about forty miles from St. Iago toward Port Antonio, Jamaica. At 9 a. m. 31st October was boarded by a boat from the Spanish war-steamer *Tornado*; inquired name of vessel, and left him, (meaning the vessel.) The *Tornado* steered toward the coast of Cuba, toward St. Iago. Deponent further declares that between three and four o'clock on afternoon of 31st October, *Tornado* still in sight, saw two other steamers. He then saw that all three steamers were steering toward the coast of Jamaica. The vessel ahead was a long low steamer, with two masts and two chimneys, and all on board the said vessel pronounced the one being chased to be the *Virginius*, from descriptions given them of the said *Virginius*, and deponent knows that the steamer astern of the one being chased to be the Spanish war-steamer *Tornado*.

They passed within three miles of deponent's vessel, so that he distinctly discerned one steamer ahead and two in chase. Deponent declares that the watch on deck reported that they had seen steamers returning to the coast of Cuba between two and three in the morning of the 1st November, which he thinks were the same steamers that passed him at sundown steering for the coast of Jamaica. Deponent further declares that, from his knowledge of navigation, if the steamer ahead was captured at 10 p. m. in the night she could not have been less than seventy miles from the coast of Cuba.

The deponent makes this declaration to the best of his knowledge and belief.

JOSHUA N. ROWE,
Master Schooner Village Belle.

Sworn to before me this 14th day of November, 1873.

No. 732.

Mr. Hall to Mr. Fish.

[Telegram.]

HAVANA, November 18, 1873. (Received Nov. 18—10.10 p. m.)

The consul at Santiago de Cuba reports, under date 13th instant, that the total number of executions of persons from the *Virginius* was

fifty-three, and that there had been no executions since 8th instant. Statements published here on 14th instant respecting fifty-seven additional executions prove untrue. The British steamer Niobe was at Santiago, and the Wyoming expected there on the 14th. The Virginus arrived here to-day.

HALL.

No. 733.

Mr. Hall to Mr. Davis.

No. 6.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 22, 1873. (Received Nov. 29.)

SIR: I transmit herewith a statement made by the United States vice-consul and the vice-consul of France at Santiago de Cuba, in regard to the action of the authorities of that place, in placing a guard of marines before the consular office on the day of the execution of the captain and crew of the Virginus.

The only reasonable pretext that I can imagine for this act, on the part of the authorities, is that they may have desired to protect the consulate in the event of any popular demonstration against it. There could have been, in my opinion, no other justifiable motive, and naturally they would not confess their apprehensions to Mr. Schmitt.

No information of special interest has been received from Santiago de Cuba since my last communications, further than that the United States steamer Wyoming, Commander Cushing, arrived there on the 15th instant.

I have to-day reported his arrival to the Navy Department.

I would call the attention of the Department to the many articles published during the past ten days, in the papers of this city, relating to the affair of the Virginus. I regret my inability to furnish translations.

I am, &c.,

HENRY C. HALL.

[Inclosure.]

UNITED STATES CONSULATE,
Santiago de Cuba, November 7, 1873.

Be it known that on the 7th day of November, 1873, at 4 o'clock p. m., I, the undersigned, E. G. Schmitt, vice-consul of the United States at Santiago de Cuba, in order to report to my Government, as such consular officer, the gross insult which has just been put upon this consulate by the officers of the Spanish navy and army, thereby showing a want of courtesy and behavior contrary to and prejudicial to the community and the privileges which consuls of the United States possess in Spanish countries by virtue of treaty stipulations, have hereby drawn up the following statement of facts to submit to the knowledge of the United States Government, to wit:

On this afternoon, Mr. Alphonse Garrus, French consul at this city, and his chancellor, Mr. E. Vigié, joined me in my consular office and residence for the purpose of seeing Captain Frye and the individuals of the crew of the steamer Virginus, who were condemned to be shot on this day, pass by on their way to execution. Just previous to their leaving the jail, we have noticed a guard of two soldiers of marine infantry and a corporal of the army stationed at the door of this consulate, without any previous notice having been given of any such intention on the part of the authorities.

I immediately demanded of the guard their motives in placing themselves at my door, and politely asked them to withdraw, and was answered that it was in obedience

to an order from the commanding officer of the forces at the jail and in charge of the prisoners, and consequently they formally refused to withdraw.

Wherefore, I do formally protest against this act, and the person or persons responsible therefor, and have drawn up this statement, which, together with the gentlemen before named, I have signed at Santiago de Cuba, the day and year as before written.

(Signed)
(Signed)
(Signed)

E. VIGIE.
ALPHONSE GARRUS.
E. G. SCHMITT.

No. 734.

Mr. Hall to Mr. Fish.

No. 8.]

UNITED STATES CONSULATE-GENERAL,
Havana, November 22, 1873. (Received December 3.)

SIR: With reference to your No. 204 and telegram of the 12th instant, instructing me to demand of the authorities the most ample rights secured by treaty or the law of nations for all Americans on the *Virginus*, I have to state, in reply, that upon the receipt of the telegram I called personally upon the superior political governor and read the same to him. He answered me in civil terms, much in the tenor of his two communications upon the same subject, referred to in my Nos. 298 and 304, and substantially that the consular prerogatives, being of a mere commercial character, did not authorize me to address him upon subjects of the nature referred to; that he had acquainted his own government with all the facts that had come to his knowledge respecting the *Virginus*, and that from the representatives of the United States in Spain and of Spain in the United States my Government would be made acquainted with all such facts.

I have, &c.,

HENRY C. HALL.

No. 735.

Mr. Schmitt to Mr. Fish.

No. 104.]

UNITED STATES CONSULATE,
Santiago de Cuba, November 23, 1873. (Received Dec. 5.)

SIR: I have the honor to inform your honor that on the 1st instant, at 5 o'clock in the evening, the Spanish steamer of war *Tornado* entered this port, convoying the American steamer *Virginus*, captured on high seas, having on board some one hundred and sixty-five individuals, foreigners and Cubans, brought as a prize, among which Colonel Ryan, B. Varona, (alias Bembeta,) Jesus del Sol, Peter Cespedes, brother of the President, Carlos Manuel Cespedes, a son of the same President, and a brother of Quesada.

* * * * *

I have, &c.,

E. G. SCHMITT,
Vice-Consul.

[Inclosure 1 in No. 104.]

Captain Fry to the American consul at Santiago de Cuba.

SIR: I have made several ineffectual efforts to communicate with you, and am at a loss to understand why the agent of a Government as powerful as the United States should not at once communicate with the master of an American vessel captured on

the high seas, in time of profound peace, by a Spanish man-of-war. I desire that the papers of the *Virginius* should be examined by you, and the facts and incidents of her attempted voyage noted and communicated at once, by telegraph, to the Government, as it may serve to save future complications between the governments of Spain and the United States.

I am, &c.,

JOSEPH FRY,
*Master of the Steamship Virginius,
Now a prisoner in the Spanish man-of-war Tornado.*

[Inclosure 2 in No. 104.]

Declaration of Captain Fry.

Declaration taken on this day, 7th of November, 1873, after having sworn unto the Bible, that this is the true and real words of the Capt. Joseph Fry, aged 47 years, born in Florida, in the United States of America, and being condemned to death by the martial law in the jail of the city of Santiago de Cuba, in the presence of the American vice-consul, E. G. Schmitt, after making oath to tell the truth, on the Bible, &c., and having made declaration and protest as he do solemnly protest before and in the presence of the said vice-consul, declare: Being master of the American steamer *Virginius*, with all his papers, specially register of the steamer, crew-list, articles, clearance from Kingston, Jamaica, as also dispatch from the custom-house, &c., sailed on the 23d day of October, 1873, with all his crew and passengers, to the number of one hundred and eight, or thereabout. After a few hours at sea, sprung a leak and put into the Haytian port for repairs. Sailed from the port of Caimit, of that island of Hayti, on the 30th day of October, 1873, and while between the islands of Cuba and Jamaica, about twenty odd miles from Cuba, were chased by a steamer and captured about 18 miles north of Morrant Point, east end of the island of Jamaica, about 10 o'clock at night, the ship having fired several shots over the *Virginius*, and compelled her surrender. The steamer was then taken charge of by a boarding officer, who stated that he did so on his own responsibility, knowing her to be an American vessel and under the protection of the American flag, when the master, Joseph Fry, with crew and passengers, were placed under guard and all brought into the port of Santiago de Cuba, on the 1st day of November, in the evening subsequently, after having delivered all the papers of the aforesaid steamer when she was captured. He has been refused officially all chances of application or appliance to his consul for protection, and he has been condemned to death, with the greatest part of his crew, under no known public law or pretext, a local proclamation, of which he or they had never heard; and as he has only time to make his appeal, being hurried in his preparations for death, and as he wishes it should be stated, being his true declaration to serve his guard.

IN JAIL, at 9 o'clock, the 7th of November, 1873.

JOSEPH FRY.

UNITED STATES CONSULATE,
Santiago de Cuba, November 7, 1873.

Be it known that the day of this date, in the jail of this city, I, E. G. Schmitt, vice-consul, having been called by Capt. Joseph Fry, of the American steamer *Virginius*, to take his oath, declaration, and protest, extended hereabove and verse, is his true authentic declaration, testified by the Spanish officer in charge of the custody of the prisoners, signed as witness in my presence, which contents of this public instrument recorded in the books of this consulate, to serve and avail to all and whomsoever it shall or doth or may concern, and may be needed as occasion may require.

In testimony whereof I have hereunto set my hand and affixed the seal of the consulate at Santiago de Cuba, the day and year above written, and of the Independence of the United States the ninety-eighth.

E. G. SCHMITT,
Vice-Consul.

[Inclosure 3 in No. 104.]

VERBAL COUNCIL OF WAR, (COURT-MARTIAL.)

The tribunal is constituted in the following manner: A fiscal, (instructor accuser,) a military officer of the grade of, or above, major, appoints a notary and an orderly, who may be a corporal or a private. The chief of the tribunal is the governor, who appoints six persons on the court, ranking as captains. The constituted council instantly summon two or three persons as accusers, to make declarations against the prisoners, and, supported by their affirmations, they proceed to receive the declaration of the parties accused.

After this, it is the rule that the prisoner may select an advocate or defender from a list of officers presented to him. The selection must be immediate. The fiscal then accuses the prisoner before the tribunal, without caring for his presence or description, as it saves time. When once the accusation is complete, they deliver the papers to the advocate of the defender, who is given from half an hour to a maximum of four hours to take evidence for the defense. The whole case must be reviewed and decided within twenty-four hours, and no pretext is allowed to detain the case longer. The fiscal then immediately informs the military governor of the tribunal's decision, sending him the documents and evidence, and naming the time and place where the council is to meet. Before the military council the fiscal reads the declaration that begins the process, after which the witnesses come forward to ratify all that they have declared in the presence of the accused. The fiscal then reads the accusation, and the defense reads his evidence, and the sentence and finding of the court-martial is decided by a vote, the junior officers voting first. The sentence being pronounced, the papers are sent to the governor for his approval, which is given after a consultation with his legal adviser. It is the custom of these tribunals to have the assistance of an advocate, but in the case of the *Virginus* they avoided having one.

The declarations of the accused were translated by Mr. Isidore Agostini, the sworn interpreter, *ad interim*, of the Spanish government; and those of Captain Fry and his crew by Mr. Emile Agostini, interpreter of the marine. The younger Agostini is a volunteer officer of the army and in a dependent position, so that his translation might be suspected, as he is entirely at the will of his superiors. As to the older one, he is also in a position of absolute dependence, and must favor the prosecution rather than the defense. This is shown by the care that they took to prevent the United States and British consuls from seeing the prisoners or from witnessing their declarations. It is reported that Captain Fry declined to answer all the questions put to him; protested that, by the law of nations, he and his crew had committed no offense that justified his or their imprisonment or trial as pirates, claiming to be commanding an American merchant-vessel, furnished with all properly-certified papers, which he had delivered to the boarding-officer of the capturing vessel. Nearly all of the crew have declared that they were ignorant of what the tribunal desired of them, and why they were tried; that they had been engaged in the customary way on the vessel, without questioning the object or termination of the voyage, and that they were guilty of no international crime.

E. G. S.

SANTIAGO DE CUBA, November 23, 1873.

 No. 736.
Mr. Schmitt to Mr. Fish.

No. 107.]

UNITED STATES CONSULATE,

Santiago de Cuba, December 4, 1873. (Received Dec. 18.)

SIR: I have the honor to inclose herewith a list of the captain, Joseph Fry, and crew, captured in the *Virginus*, who never came to the jail except for a few hours before their execution, ordered by the captain of the port, (commandant of marine, *i. e.*, major of marines,) executed on the 7th day of November, 1873, at 4 o'clock p. m. Yesterday morning the prisoners, ninety-two in all, taken from the steamer *Virginus*, were conveyed from the city prison to the Morro Castle, and, seeking information, with Capt. D. L. Braine of United States steamer *Juniata*, of the governor here, he informed us they were sent by his order there, for the health authorities objected to the crowded jail.

This morning at 3 o'clock a. m. these persons were removed on board the Spanish man-of-war *Bazan*, secretly, by order of the captain-general of Cuba, and conveyed to Cienfuegos, thence by railroad to Havana.

Captain Braine protested against this covert act as contrary to the understanding with him. The governor fell back upon his orders from

superiors. We then visited the hospital, and found ten persons sick there, two of whom claimed to be Americans. The governor informed us that they were all to be sent to Havana as fast as they recovered. The feeling here is intense against Americans. We ought not to be left one day without a vessel of war in port, or probably the vice-consul would be ordered to leave the island by the volunteers or members of the Casino.

The government are now ordering all persons of over twenty-two years of age, residents there, to take arms as volunteers. The organ of the Casino Español in this place has repeatedly called on me, vice-consul, to refute some articles purporting to have been published in the Jamaica and Panama papers regarding Brigadier Barriel; I have not nor do not intend to reply. The three United States ships here intend leaving to-morrow for Key West, to meet Admiral Scott.

I have, &c.,

E. G. SCHMITT,
Vice-Consul.

List of crew captured in the Virginia, and who never came to the jail except for a few hours before their execution.

Name.	Where from.	Married or single.	Age.	Occupation.	Remarks.
1. Joseph Fry	United States	Married	47	Captain	Of merchant vessel, brought here to the jail by order of the captain of the port, (commandant of the marine, i. e. major of marines;) executed on the 7th, at 4 p. m., same day of arrival in jail.
2. William Baynard	do	Single	37	Mate	Do.
3. James Floody	England	Married	25	do	Do.
4. J. C. Harris	United States	do	45	Miner	Do.
5. John N. Boza	Port Principe	do	37	Farmer	Do.
6. B. P. Chamberlain	New York	Single	37	Engineer	Do.
7. Francisco Sotero Trujillo	Bayamo	do	37	do	Do.
8. Edward Day	New York	Married	39	do	Do.
9. John Williamson	United States	Single	35	Oiler	Do.
10. Pefirio Corbison	St. Jago, Cuba	do	26	Commerce	Do.
11. Pedro Alfaro	Havana	do	26	Puizer's cl'k	Do.
12. Thomas Grigg	Barbadoes	do	30	Mariner	Do.
13. Frank Good	Jamaica	Married	37	do	Do.
14. Paul Rhumer	Ireland	Single	40	Fireman	Do.
15. Barney Hewals	England	do	28	do	Do.
16. James Samuel	do	do	20	Mariner	Do.
17. Henry Frank	Barbadoes	do	21	Coal-heaver	Do.
18. James Read	Africa	do	40	Fireman	Do.
19. Samuel Karel	Nassau	Married	24	Mariner	Do.
20. John Brown	United States	do	37	do	Do.
21. Alfred Hesel	England	Single	23	do	Do.
22. Walter Frederick Price	do	do	20	do	Do.
23. George Thomas	Jamaica	do	22	do	Do.
24. Tho. Walter Williams	England	Married	26	Steward	Do.
25. Ezequiel Dunham	Canary Island	Single	27	Mariner	Do.
26. Simon Brown	Nassau	do	29	Waiter	Do.
27. Leopold Thos. La Rose	United States	do	18	Cabin-boy	Do.
28. Alonzo Arcey	Trinidad	Married	38	Farmer	Do.
29. William Rose	Scotland	Single	23	Mariner	Do.
30. John Stewart	Saint Martha, Venezuela.	do	29	do	Do.
31. Henry M. Bond	England	Married	45	do	Do.
32. George Thompson	do	do	38	do	Do.
33. Ignacio Dueñas	Barranquilla	Single	27	Cook	Do.
34. Antonio Deloyo	Bolivia	Widower	30	Mariner	Do.
35. José Manuel Ferran	Jamaica	Single	22	Cook	Do.
36. Ramon Lawamendi	Bayamo	do	27	Farmer	Do.
37. Eusebio Gariza	Barranquilla	do	29	do	Do.

List of the men who came from the Virginius crew to the jail, and who are now living, sent by the captain of the port at the disposal of the governor.

Name.	Where from.	Married or single.	Age.	Occupation.
1. Charles A. Knight	New York	Single	21	Engineer.
2. Henry King	England	Married	27	Do.
3. William Wilson	United States	Single	24	Mariner.
4. Thomas Lindgly	Canada	do	18	Do.
5. Charles de Brosse	Jamaica	do	12	Printer.
6. William Danton	do	do	17	Tailor.
7. John Pothremont	do	do	17	Tinsmith.
8. Edward Scott	Jamaica, U. S	do	18	Do.
9. John Freeman	Curacoa	Married	16	Mariner.
10. Nicholas Cardozo	Colombia	Single	14	Waiter.
11. Joseph del Espiritu Santo	Jamaica	do	16	Cook.
12. Alfred Parker.	United States.	Married	31	Mariner.
13. Henry Knight.	New York	Single	16	No profession.
14. Philip Marty	Curacoa	do	20	Assistant engineer.
15. Antonio Constantine	do	do	14	On board of the gunboat Cuba-Espanola.

No. 737.

Mr. Hall to Mr. Davis.

No. 13.]

UNITED STATES CONSULATE GENERAL,
Havana, December 5, 1873. (Received Dec. 12, 1873.)

SIR: The past week has been one of great excitement here, owing to the defiant attitude of the Spanish population, or a portion of it, and to other causes growing out of the reported settlement, between the United States and Spain, of the affair of the *Virginius*, involving the delivery of the vessel and the release of the surviving prisoners still detained at Santiago de Cuba.

Reports and rumors of the most inflammatory character have been kept in constant circulation: sometimes, that the volunteers were arming and preparing to displace the captain-general; at others, that they would burn the *Virginius* in the event of her surrender. Yesterday morning it was understood that all matters had been arranged honorably to Spain; that the *Virginius* would be given up and the prisoners at Santiago de Cuba released to the United States; but during the day some telegrams were received which revived the smouldering fires of the previous days, and made it evident that the arrangement could not be carried out without bringing the authorities into conflict with the peninsular population. To-day again we have reports of a more pacific character; that the *Virginius* will be surrendered, and that all the instructions of the government of Spain will be complied with.

It is understood that the government of Spain has sent the most positive instructions to these authorities to carry out the agreement between the two governments; that the captain-general has desired to comply, and has been supported by some of the leading functionaries and military officials, and even by some of the commanding officers of the volunteer battalions, but that the admiral and other naval officers of the station refuse most decidedly to carry out such instructions, and are supported by a large majority of the officers of volunteers and almost the entire Spanish population.

In his purpose of complying with the instructions of the government of Spain, the superior authority of the island has been obliged to call into consultation the leading representatives of the classes above referred to, and evidently has failed to obtain their sanction to enable him to carry out such instructions. If finally he should be able to enforce them, it will

be due, doubtless, to his own personal influence and tact rather than to any respect which he inspires as the representative in Cuba of the supreme government of Spain. He evidently appreciates the anomalous position his government would be placed in through its inability to enforce its international obligations in Cuba.

The press of Havana has contributed its full share in bringing about the prevalent spirit of insubordination. Inflammatory appeals have been made to popular prejudices through the newspapers and anonymous publications, but after working up this spirit of resistance it now appears to be disposed to counsel calmness and confidence in the superior authority.

I respectfully call the Department's attention to the accompanying articles, taken from different newspapers of this place during the past week. These extracts will give some idea of the character of the appeals which have been made to prejudices of the peninsular population of Havana, at all times excitable, but at this time wrought up to the highest pitch of excitement by the events referred to.

I am, &c.,

HENRY C. HALL.

[Inclosure 1 in No. 13.—Translation.]

To the Government of the Nation :

A recent act performed by the Spanish navy, and showing once again the dignity and heroism of our marine, has wounded the feelings of a nation as proud as presumptuous, and which for some time has been protecting, in a manner as vile as it is cowardly, the enemies of our nationality, those who desire to see our glorious banner humbled and scorned.

The seizure of the insurgent steamer *Virginus* by the Spanish war-steamer *Tornado*, and the prompt and condign punishment of the infamous pirates, who, under shadow of the American flag, are endeavoring to continue the reduction to ashes of the best towns of this island and the assassination of our most loyal brothers, has been received with increasing enthusiasm by the *Spaniards*, without conditions, who understand that the hour has now arrived for the Latin race to recover in the New World all the importance and grandeur which correspond to it.

However, news is received from Europe announcing that the representatives of the United States, a nation which protects all the criminals of the earth, pretend to ask explanations from the Spanish government upon an act just and perfectly in accord with the law of nations; and, should this prove to be so, the undersigned, who believe that they are the faithful interpreters of the sentiments which animate all the loyal, address themselves to the government of the nation, in order that, relying upon the real wishes of public opinion, it shall not hesitate in the least, but give a severe lesson to the Anglo-Saxons in America, showing this race that it would be more possible for the island of Cuba to disappear forever than to consent with impunity that our nation shall be humbled and reviled.

The government of the Spanish nation may rest in the intimate conviction that the majority of the inhabitants of this great Antilla ardently desire to humble once for all the starry banner, which will never wave, and which can never waver, wherever is displayed the glorious ensign of Lepanto, of Trafalgar, Las Navas, Baylen, Pavia, Cerignola, Gerona, Saragossa, and many other places where memorable battles have been fought, and where our forefathers wrote in their blood the most revered pages in the history of our beloved country.

Let, then, the government of the Spanish nation be energetic if it wishes to be the echo of the sentiments of this country, and let it spare no sacrifice of any kind when it comes to saving the honor of our people; let it not fear the ridiculous threats of the United States, for all of us here are willing to die in defense of our rights and before the last rood of our country shall be profaned by the foot of the foreigner. Before we are humiliated by the impositions of despicable powers we shall know how, upon the sacred cry of "Viva España," to die surrounded by our children, that future generations may remember that it is preferable to disappear from the scene of life at once than carry on an existence full of ignominy and shame.

HAVANA, November 29.

[Inclosure 2 in No. 13.—Translation.]

ARTICLE FROM "LA CONSTANCIA," HAVANA, NOVEMBER 30, 1873.

At the present moment, after the arrival of the minister of ultramar, of his decree upon the raising of embargoes on the property of foreigners, of the opinions expressed in sundry places by some of the members of his suite, we believe it is now impossible to keep profound reserve upon the questions of to be or not to be—for every question is such for the loyal Spaniards—which oblige us to swerve from the line of conduct we had marked out for ourselves, and which we have faithfully followed since October, 1868. The loyal Spaniards of Cuba, both native and peninsulars, during the past five years, have committed faults, have been sometimes too confiding, and at others extremely careless, and frequently very tolerant with immoral public functionaries, and with merchants, contractors, and unscrupulous speculators. These weaknesses, and the little attention they attract obey a general custom of our times. In the United States, as in England, France, Germany, and in Spain, immorality and speculation in public misfortunes have made rapid progress in these modern times, as has been repeatedly stated in our columns; but in the island of Cuba, notwithstanding the errors that have been committed, the native and peninsular Spaniards have not for a single moment forgotten their firm intention of not abandoning this land our forefathers discovered, colonized, and enriched, although there may be nothing left of it but a heap of ashes and ruins.

The loyal Spaniards of the island of Cuba must comply with their solemn oaths. We who have so often taken them—and we have taken the trouble to recollect it, that friends and foes alike may be reminded—must to-day say to our friends, that is to say, to all the loyal Spaniards of the island of Cuba, born in the peninsula, in the Antilles, and in other countries, who are identified with us, that the news which circulates, and which the *laborantes* know by the constant communications they write, are not entirely wanting in foundation. It is necessary that the people should know it, and every one should be considered as an enemy who endeavors to allay us to sleep when we need to be awake to prepare ourselves for the struggle, to conquer or avenge ourselves, as belongs to those men who desire to be worthy sons of heroic Spain.

The time has come for speaking the truth to the loyal Spaniards of the island of Cuba, and may the curse of God and the reprobation of history fall upon the heads of those wicked ones who endeavor to drive a bargain with public sentiment.

Far from putting off the question in order to prolong, although but for a day, an insupportable position, it is necessary to say to the Spaniards of the island of Cuba that the hour of trial we foretold has arrived, for we have seen it coming since October, 1868.

The hour has come to prove that we are forewarned, and must fulfill our oaths, falling, if fall we must, in mortal combat "to the knife," as said Palafox, the governor of immortal Saragossa, to the French in 1809.

We, the loyal Spaniards of the island of Cuba, will be promptly seconded by our brothers of the peninsula, and we shall conquer, by sea and land, those who hope to profit by our misfortunes, to thrust us out ignominiously from this island, and those despicable men who pretend to regenerate humanity, commencing by selling their country for thirty pieces.

Let us confide in the worthy captain-general of the island of Cuba; let us wait until he informs the public of all that occurs; for this is the only means to defeat the intrigues of those who know everything, thanks to the traitors who lend them powerful aid.

Let us trust, in short, that from to-day active measures will commence to be taken to organize resistance, and the attack by sea and land of all kinds of enemies, at the same time ordering all those to leave the island who are in the way, and refusing passports to those who can be of service to us personally and with their fortunes.

The superior authority cannot, ought not to waiver; all loyal Spaniards, native and peninsular, will render him our unconditional support, because we consider it a special favor of God, in whom we trust and hope, that these events should have occurred after General Joaquin Jovellar had relieved General Candido Pultain in the command of this island.

"True heroes are those," says a French historian, speaking of what was done in Chili and Peru by Brigadier Pezuela, "who obtain great triumphs with scanty means, as compared with those of the enemies." The captain-general of the island of Cuba may not have the elements to triumph over powerful enemies, but will always have more than enough to fight until he falls with honor.

[Inclosure 3 in No. 13.—Translation.]

ARTICLE FROM THE "VOZ DE CUBA," DECEMBER 2, 1873.

To the loyal Spaniards:

The "Voz de Cuba," which cannot deceive you, addresses you, to recommend calmness, prudence, and union.

The "Voz de Cuba," when it is a question of defending the honor of Spain, yields to no one. This it is not necessary to say. You know it, and our enemies know it.

Whilst we are united, whilst we do not consent that mean intrigues shall divide us, whilst love to our country unites us all like one man, the situation cannot be critical.

Three days ago a humiliation of such a nature was exacted of us that as Spaniards we could by no means consent to it; and animated all by the same desire, as if but one heart beat in the breasts of all, we rejected the humiliation. Our most worthy chief authority, who is completely identified with us, heard and transmitted our energetic and respectful protest.

But to-day that is not exacted. The pretensions have been immensely modified, and we do not hesitate to declare that our honor is saved.

But the Voz de Cuba declares it in a loud voice: There are among us emissaries of the enemy who attempt to break that union which is our salvation; who desire that we shall smooth the way to their triumphant treason; they desire that we shall be the ones to open the doors of the national palace to Carlos Manuel Cespedes.

Loyal Spaniards! Distrust all those who attempt to sow among us the seeds of discord. Do not believe them, even when they speak in the sacred name of Spain, which in the bottom of their hearts they curse, and which they believe the time has come for it to disappear forever from this Antilla.

Treason is as cunning as it is cowardly. It knows that it cannot conquer us, and to this end desires to make use of us.

The "Voz de Cuba" repeats, (and you know the "Voz de Cuba" does not deceive you,) have complete confidence in our chief authority, and rest assured that he will do nothing, absolutely nothing, that does not bear the impress of the purest Hispanism.

Calmness, then, and prudence, unwavering union, implicit faith in the chief authority, is what the "Voz de Cuba" asks of you, assured that you will listen; and every one that attempts to swerve you from this path, the only one which is to lead us to salvation, the only one by which our honor will come out un tarnished, rest assured that he is either the victim of a miserable mistake, or a rogue who tries to convert us into becoming the vile instruments of his treason.

HAVANA ASSOCIATED PRESS, POLITICAL TELEGRAMS,
Madrid, November 29, 1873.

After having consulted confidentially with the European powers, who unanimously judged in a favorable sense for a reparation to the United States, and after also consulting the principal political men of the peninsula, the council of ministers has agreed as follows: First, to deliver up the steamer *Virginus* and the prisoners to the United States; second, to submit to a mixed tribunal the question of the legality of the capture of said vessel, as also that of indemnity for the families of the prisoners who were executed.

The steamer Virginus.

By the telegram of the associated press our readers will learn the resolution taken by the Madrid government upon the steamer *Virginus*.

The loyal Spaniards of this island, who have read with attention our articles upon this question, will understand the effect which the reading of this telegram has produced on us.

But whatever may be the impression our mind suffers, the "Voz de Cuba" is not of the temper to allow itself to be ruled and its judgment confused at the time it has great duties to perform; duties sacred and unavoidably imposed on us by the boundless confidence with which the loyal Spaniards of this island have distinguished us, and duties which we shall perform as our readers know we perform them on every occasion.

The question is much more complex than it appears, and presents one very interesting phase, under which it is necessary to study it thoroughly; and this the *Voz de Cuba* offers to do with the same attention it always devotes to every important question.

Meanwhile we will only say, as if in anticipation, that in all this question and the way it has been conducted, we discover a well-combined plan of the enemies of Spain in order to obtain, by means of surprise and as if by a kind of jugglery, the constant object of their wicked aspirations, the independence of Cuba.

The plan has been ably arranged, and there is no doubt that if we remain with our eyes shut we might fall into the trap set for us: but however concealed that may be, the *Voz de Cuba* will make it plain, and our enemies will not obtain their object.

For the present the "Voz de Cuba" again recommends, with the greatest earnestness, calmness, prudence, unwavering union, and confidence in our chief authority, for these are the indispensable means to overthrow the wicked plot we point out, and which we will fully discover.

To the skill of the enemy to lose us, we oppose our skill to conquer him, and for us to-day the highest degree of that skill consists in preserving that calmness, prudence, and that union which we shall never tire of recommending.

[Telegram.]

NEW YORK, November 29, 1873.

ZULUETA: The present question settled; full particulars go on by to-day's mail. Calmness and prudence. Spain comes out of the question gracefully. Acknowledge the receipt of this.

CEBALLOS.

[Inclosure 4 in No. 13.—Translation.]

ARTICLES FROM THE "VOZ DE CUBA," DECEMBER 3, 1873.

To the Spaniards in heart:

If there still are, as we have been assured, any impatient but unthinking spirits who, not understanding the gravity of the circumstances through which we are passing, pretend to carry into effect any manifestation of an illegal character, we exhort them to recollect that any one that now attempts to carry out acts of that nature incurs a tremendous, an immense responsibility, the extent of which he, perhaps, does not understand.

The imprudence of a single individual may compromise more than anything else the honor of Spain. Let good Spaniards know that the most worthy superior authority of the island, deserving of the most complete and absolute confidence, is engaged without rest on the grave affair which to-day attracts all the public attention. Let us therefore wait.

It would be making an ill return for the zeal, the elevated patriotism, the sincere good faith of the chivalrous, honorable, and worthy chief who fortunately governs us, it would be to offend him surely, not to show the greatest calmness; meanwhile the questions to which he dedicates all his activity and intelligence are being arranged.

The present captain-general of the island of Cuba—and of this we ought not to entertain the slightest doubt—will bring out the honor of Spain untouched, however violent or pacific the solution given to the question may be.

Let not the sincere Spaniards forget that we are surrounded by many *laborantes* who spread absurd rumors, and are interested in provoking conflicts of immense transcendence, now that the gravity of the circumstances and the excited state of minds tends to produce them. Do not forget that the *laborantes*, whose ability is well known, would not let slip, to secure their ends, the opportune occasion presented at the present moment.

Therefore calmness, union, and confidence. If you hear any one speaking of carrying into effect illegal acts—which would be a calamity that would overwhelm us—bear in mind that he must be either some restless spirit who does not stop to reflect on the tremendous peril in which he places the honor of Spain and the integrity of the territory, or a disguised rebel who desires to mock you most miserably.

And, above all, keep in account that any commotion, attempted or performed, would be a motive for rejoicing for our enemies, and would constitute a real triumph for those who desire to tear away our flag from this island.

Casino Español, Havana.

By decision of the board of directors of this casino, the following telegram, under yesterday's date, was transmitted to all the other casinos of the island:

"Telegrams from Madrid of the greatest importance have obliged all good Spaniards to renew their oaths to the government, to preserve the honor of the country in this Antilla, even at the cost of our lives. Confidence in us, equal to that we have in that center; and whatever decisive may occur shall be at once communicated."

ZULUETA.

[Inclosure 5 in No. 13.—Translation.]

ARTICLE FROM THE "DIARIO DE LA MARINA," DECEMBER 2, 1873.

To the Spaniards without condition:

With deep pain, with that pain which is shared by every Spaniard ready to die in defense of the dignity of his country and the honor of his flag, do we publish to-day

the telegram of the associated press received yesterday. The *Diario de la Marina* has maintained with all the force of conviction and of sentiment that the steamer *Virginus* has been, since August, 1870, until October 31, 1873, a vessel acquired for account of the rebels in this Antilla, and dedicated to introducing therein men, arms, and other munitions of war, to give life to the rebellion. This we have maintained in the past, do now, and shall in the future maintain, because the *Diario de la Marina* claims no other virtue than that of consistency; it may break, but will never bend, because it will never contradict itself.

The habitual readers of the *Diario* know that, some misinformed and others with mischievous intentions, the papers and persons have abounded in the United States to thunder against the capture of the *Virginus*, presenting it as an offense against the starry banner, as if vessels dedicated to filibusterism could legally carry the flag of any known or sovereign state, or as if they did not deserve the wrath of the people whose flag they usurp and dishonor. The Washington Government, we know not with what foundation, became, up to a certain point, the echo of the exaggerations of the press and the clamor of the orators at the meetings, and presented its claims to the Madrid government, commencing by forming them into a kind of ultimatum, which, according to our trustworthy information, was presented on the 26th of last month.

The Spanish government did not admit the conclusions of this note, which bore a very peremptory character. According to the associated press dispatch, it consulted confidentially with other European powers, which, undoubtedly misinformed, were unanimously of opinion in a favorable sense for a reparation to the United States; the government also consulted the principal political men of the parties which desolate the peninsula, whose opinion, it appears, was in accord with that of the European powers. After this taking of counsel, it continued debating the affair in order to settle upon the delivery to the United States of the steamer *Virginus*, and of the prisoners still alive, leaving other questions pending to be adjusted and determined as they deserve by diplomacy. The United States, for their part, agree to investigate if the vessel could legally carry the American flag, in order, in case it should result otherwise, to give us due satisfaction.

We place before our brothers the truth of the facts, such as we understand it, and must also say to them that the island of Cuba, that the brave and generous Spaniards who defend it have stated in the most solemn manner, even in the moments of greatest conflicts, in those moments which mediated between the requirements of the United States and the resolution of the Madrid government, that they persist in what they have so often repeated, which is, that the government shall place very high the dignity of the nation, without occupying itself much or little of the harm which might happen to the loyal of this province. This is the criterion, and it is just that history should record it, of those who, if we are not as fortunate as the companions of Hernando Cortes, and of Pizarro, at least are determined as they to die a thousand times for our country.

The narration we have just written has left our pen like bitter tears from a deeply-wounded heart, and when the solemn moment arrives that we have to make to our brothers—to those who think and feel as we do; to those who, like us, are ready to shed the last drop of their blood for our country—a slight admonition that we have to give them advice, we have to limit ourselves to addressing them an entreaty. We know that, before anything else, they are Spaniards; we know that peril does not frighten nor sacrifices deter them; we know that they desire what we desire, and which by no means personally alarms us nor makes the least impression. Let them preserve their noble uprightness and manly abnegation, but at the same time preserve that tranquil firmness which is bound to save us or give us an honorable death. We cannot more fully explain what we feel; we find no words to express all our ideas; let our ardent patriotism and our boundless Hispanism supply what our pen can but feebly express.

Inhabitants of Havana:

In my duty from preventing public opinion from being led astray, I consider it reasonable to address you in a friendly tone, and recommend to you the greatest calmness under the present existing circumstances. The question of the *Virginus* has given rise to the spreading by the enemies of the Spanish cause in Cuba of alarming rumors and news, which, certain to produce an effect upon your ardent and tried patriotism, only favor the insurrection.

It is true that agreements have been made, it is true that I have received telegraphic communications upon these same agreements, but if I have succeeded in inspiring among you any confidence, give me a proof of it by your considerate and tranquil attitude, assured that I will do all that is humanly possible in behalf of the great interests of this province, and of the dignity of the nation, which, like, you, I love more than life itself.

Your governor and captain-general,

JOAQUIN JOVELLAR.

HAVANA, December 1, 1873.

[Inclosure 6 in No. 13.—Translation.]

ARTICLE FROM THE "DIARIO DE LA MARINA," DECEMBER 3, 1873.

The ultimatum.

The correspondent of the New York Herald at Madrid, on the 26th ultimo, forwarded the following telegram:

We have something to add to and something to take from the version of the Herald respecting the exactions presented in the *ultimatum* to which it refers. We believe that the Washington Government asked, first, the delivery of the *Virginius* with her surviving crew; second, a salute to the American flag; third, the commencement of an inquiry, to exact before the Spanish courts responsibility of those who have insulted the American flag; and fourth, to submit to the decision of an arbitration the compensation due to the families of the British and American citizens who were shot in Santiago de Cuba.

In the conditions we have just presented on our account the salute to the flag is not considered; all that relating to the indemnity is modified; those who intervened in the capture of the *Virginius* are to be subjected to the judgment of Spanish courts, and not a word is said respecting guarantees against future aggressions. The Government at Washington, unable to seriously entertain the inculpableness of the *Virginius*, engages on its side, *if the vessel had no right to carry the American flag, or if it is proven that it was armed to sustain the Cuban insurrection, to give us satisfaction and reparation; but reserving to itself the power of trying its own citizens.*

If the question be examined with the impartiality due to it, if the investigation be made with the sincere desire of unveiling the truth, it would not cost the least effort to prove that the *Virginius* traitorously carried the American flag, and that during three consecutive years it has been employed in sustaining and aiding the rebels of this island. In regard to this point we would willingly submit ourselves to that which, as jurists, and consulting their memory and their conscience, President Grant and Secretary Fish would assert upon the Holy Evangels, because we believe them incapable of disregarding the sanctity of an oath.

The Madrid government rejected the mass of this *ultimatum*, and, as we know, in the most positive manner; and, as stated in yesterday afternoon's extra, stipulated for the delivery to the United States of the steamer *Virginius*, and of its surviving crew, leaving all other questions pending to be settled afterward. The United States maintain their compromise relative to the flag, and the occupation of the *Virginius*, to which is united the duty of giving us reparation and satisfaction in the way they shall determine; in that case, as we have before sustained, it will give place to no kind of doubt on the ground of justice and good faith.

It has appeared to us convenient, and even necessary, to present the question entire, to put face to face with the demands of the Washington Government the concessions of the Madrid government, that the public may establish by itself the due comparison, that it may judge with knowledge of the case, to reflect with that manly tranquillity which is proper to men capable of noble, loyal, and glorious resolutions. In the agreement of the American Government respecting the use of the flag and the occupation of the steamer *Virginius*, we find a great argument in favor of Spain.

By initiating this compromise, the Government at Washington recognizes the possibility—the probability, we should at least say—that the *Virginius* had no right to use the American flag, that it was fitted out to aid the rebellion of Yara, that it has rendered and was about to render, from the 23d to the 31st October, new and important services to the said rebellion; and when once this confession is admitted, it is hard to believe that a government should peremptorily demand the delivery of a vessel which it considered suspicious.

The more we probe this question, and the more we occupy ourselves over it, the clearer do we see the right of Spain; and just when we wish to be most impassive, most reasonable and cool, so much more does the blood boil in our veins, our hearts beat quicker, and, we own it without a blush, the heart rules the head, and feeling masters our reason. Let not our friends doubt now or ever of our loyalty, because they would be even criminally unjust; but we ourselves beg them to distrust the clearness of our intelligence, for he cannot be a prudent counselor who begins by saying that his heart rules his head, and feeling overmasters his reason.

[Inclosure 7 in No. 13.—Translation.]

ADDRESS.

The National Integrity to the Volunteers.

COMRADES: We have sworn to save the honor and the integrity of Spain, and we will save it. If it be necessary to die, we will die; for *dulce et decorum est pro patria*

mori. But we have also sworn to preserve order, obey and cause respect to the authority, and we should comply therewith. If our worthy captain-general, as prudent and noble as he is brave, with the purest and most elevated patriotism, asks of us confidence and a reflective and calm attitude to save the dignity of the nation, which, like us, he loves more than life itself; if in him we admire justice, valor, morality, and all the other virtues which make us look to him as a father, love him as a friend, and venerate him as a chief; if he is, in effect, with us without conditions, let us conquer the sentiments of just indignation which, with frenzied enthusiasm, always burst from Castilian breasts upon the slightest approach of a blemish on national honor, and follow his counsels. Let us wait, if he says we ought to wait, and execute his will, recollecting that we shall soon see—and perhaps very soon—shine at his side, in the now gloomy horizon of Cuba, the bow of peace and promise, and without him we shall find but chaos, and, behind that, perdition and dishonor to that beloved country we shall ever adore.

Should war break out, let us seek a glorious death without counting the number of our enemies; but for love of Spain, and in order not to disconcert the magnanimous design of astonishing the world with our heroism, let us await the orders of our captain-general. Implicit faith in his patriotism, confidence in his valor, obedience to his commands; calmness, union, firmness, and moderation among ourselves, and the future is ours. But should fate still hold for us some painful sacrifice reserved, some concession to wound our national pride, let us reflect that there is no nation, however great and heroic, which has not passed, some time, through the same bitterness, and let us have the sublime courage and abnegation of martyrs to save the integrity and the honor of Spain, and with the faith of sincere patriotism let us wait for better days.

Havana, December 2, 1873.

B. B. JIMENEZ, *President.*

VINCENTE LUIS FERRER, *Vice-President.*

G. IBANEZ, *Secretary.*

And many others.

Meeting.

At half past five yesterday afternoon his excellency, the minister of ultramar, presided over a meeting of authorities, which was also attended by the colonels of volunteers of this city, and a few other persons invited to that effect. To the inquiry which his excellency made, several of those present replied with the greatest loyalty, and there were replies as noble, and worthy to figure at its side, as that of Mendez Nunez: "Spain prefers honor without vessels, than vessels without honor."

No. 738.

Mr. Hall to Mr. Fish.

No. 19.]

UNITED STATES CONSULATE-GENERAL,
Havana, December 13, 1873. (Received December 21.)

SIR: I have to acknowledge the receipt of the Department's instructions Nos. 4 and 5, of 3d instant.

From information received from Santiago de Cuba, it appears that on the 3d instant our vessels of war, the *Juniata*, *Wyoming*, and *Kansas*, had a boat-exercise in that harbor, which somewhat alarmed the commanding general of the place, leading him to believe that an attack upon the prison and the release of the Virginius prisoners was contemplated by the commanders of those vessels.

Acting upon this unfounded apprehension, the commanding general, without any authority from Havana, had the prisoners transferred early in the morning of the 4th instant to the Spanish vessel of war *Bazan*, and sent in the direction of Havana.

The first intimation the captain-general received respecting this movement was communicated to him by telegraph upon the arrival of the

Bazan at Cienfuegos on the 7th instant. He immediately replied, giving instructions to the commander of the Bazan to return to Santiago de Cuba, and retain the prisoners on board until he should receive orders to surrender them to a vessel of war of the United States.

The Bazan, on her return to Santiago de Cuba, got aground near the port of Zaza, where she remained some twenty-four hours; during this interval the captain-general gave instructions to have the prisoners transferred to the coasting-steamer Cienfuegos, in further execution of his previous orders for their return to Santiago de Cuba. This occurred on the 9th, since when no further information has been received in regard to the prisoners.

The captain-general also informed me that he had communicated these facts to the Spanish minister in Washington, for the purpose of having them made known to yourself; and, further, that he had, on the 9th instant, transmitted his orders to Santiago de Cuba to have the prisoners delivered to any vessel of war of the United States now at Santiago de Cuba, whose commander might be authorized to receive them. It appears from the information obtained by Commander Braine, at Santiago de Cuba, that the total number of persons on board the *Virginus*, at the time of her capture, was one hundred and fifty-five, (155,) and not one hundred and sixty five, (165,) as at first reported. That of these, fifty-three (53) have been executed, one (1) has been released, and one hundred and one (101) were still held as prisoners.

At 2 a. m. of yesterday morning the *Virginus* was conveyed out of this port by the Spanish vessel of war *Isabel la Catolica*, and sent to *Bahia Honda*, where I suppose it has been arranged to deliver her to a vessel of war of the United States, although I have no information that any of our vessels have left Key West for that purpose.

During the day, as it became known that the *Virginus* had left the port, a general feeling of relief was experienced in business circles, and gold declined full 10 per cent. from the day previous. In the evening, however, a crowd of some four to five hundred persons of the lower classes of the peninsular population collected in front of the palace of the captain-general, without any other apparent purpose than to make some demonstration of disapproval of what to them appeared to be the surreptitious manner in which the *Virginus* had been sent out of the port; but the government was well prepared for any hostile demonstrations of the crowd, and it soon dispersed, without any serious event having transpired.

The demonstration of last night may be attributed, in part at least, to an extra of the "*Diario de la Marina*" of yesterday, containing a protest against the message of the President and a letter from its New York correspondent, neither of which are intended to allay the irascibility of this excited population. I transmit copies herewith, and regret that I have not time to furnish translations also.

I further transmit a copy of a letter from the consul at Santiago de Cuba, accompanying a list of the names, ages, places of nativity, &c., of those of the crew of the *Virginus* who were executed on the 7th ultimo, and the names, ages, &c., of the survivors.

I also inclose the address of Captain-General Jovellar, calling upon the inhabitants to obey the laws and to oppose no resistance to the orders of the government of Spain respecting the surrender of the *Virginus* and the surviving prisoners.

I have, &c.,

HENRY C. HALL.

[Inclosure 1 in No. 19.]

UNITED STATES CONSULATE,

Santiago de Cuba, December 7, 1873.

SIR: I now give you all news of importance since Mr. Schmitt's last, per steamer of the 3d instant.

On the morning of the 4th instant, at about 2½ a. m., the Virginus prisoners, ninety-two in number, were put on board the Spanish gunboat Bazan, and sent with all possible dispatch to Cienfuegos, thence to Havana by rail.

Commander Braine had the governor's word that he should be informed of any change of the prisoners; but the governor did not inform either the commander or myself, until I called to ask him about their removal to the Moro. He then informed me that the prisoners had been sent to the Moro on account of the crowded state of the jail, and that they might have better quarters, and that he had ordered them to be sent to the Moro; but that he had received orders from the captain-general the same evening of their removal to send them at once to Havana, (which Commander Braine and myself did not believe.)

The governor pretended to tell us that when he had ordered the prisoners to be sent to the Moro he had not the remotest idea that they would be ordered to Havana; and Commander Braine, in his protest against their removal, gently hinted to his excellency that he hardly believed all the governor told him.

The commander of the French war-vessel called on the governor the day that these men were sent to the Moro to protest against the removal of a Frenchman, (one of the passengers.) The governor informed him that he would have his man sent back to the city and placed in hospital, in order that the commander might see him.

The next morning, when the French commander learned that the person in question had been sent with the others to Havana, he became greatly displeased.

The French vessel sailed this morning for Havana. The English ram Niobe same destination, 4th instant. The Juniata is cruising off this port since the 5th instant. She communicated with the Kansas (still in port) yesterday, the Kansas sending out a boat.

The Wyoming left on the 4th, at 9 a. m., for Key West. The excitement is gradually subsiding. Captain Reid, of the Kansas, Mr. Schmitt, and myself, called on the governor, requesting to call his attention to the scurrilous articles that have appeared in the "Bandera Española," directed against Mr. Schmitt since the Virginus was brought in here. He informed us that he had not seen any of the articles in question until it was brought to his notice by one of the interpreters yesterday just before our arrival. He seemed very indignant, and said he would have it stopped at once. Nothing appears in the issue of to-day.

I am, sir, &c.,

A. N. YOUNG,
United States Consul.HENRY C. HALL, Esq.,
United States Consul-General, Havana.

[Inclosure 2 in No. 19.]

[See list of crew captured in dispatch No. 107, dated December 4, 1873, Santiago de Cuba.]

The remainder of those on board were sent to jail on the 4th, and thence by the Bazan, on the same night, to Cienfuegos, and thence by rail to Havana—ninety-two of all nations; ten left at the hospital sick, who will also go to Havana as soon as recovered, making, all told, one hundred and two men.

[Inclosure 3 in No. 19.]

List of one hundred and two passengers captured on board the steamer Virginus by the Spanish war-steamer Tornado.

SHOT ON 4TH NOVEMBER, 1873.

Name.	Where from.	Married or single.	Age.	Occupation.
1. Bernabé Varona	Puerto Principe ..	Single	97	Proprietor.
2. Pedro Cespedes	Bayamo	Married	47	None.
3. Jéans del Sol	Cienfuegos	Single	38	Farmer.
4. W. A. C. Ryan	Canada	do	28	Lawyer.

List of one hundred and two passengers captured, &c.—Continued.

SHOT ON 8TH NOVEMBER.

Name.	Where from.	Married or single.	Age.	Occupation.
5. Arthur Mola	Puerto Principe ..	Single	19	Agriculturist.
6. Francisco de Porras	Havana	do	19	Cabinet-maker
7. Louis Sanchez, (recognized to be Herminio Quesada.)	Porto Principe	do	18	Student.
8. Joseph Boitel	Cardenas	do	26	Agriculturist.
9. Augustia Varona	Puerto Principe ..	do	28	None.
10. Salvador Pinedo	Nuevitas	do	23	Merchant.
11. Henry Castellano	Güines	do	29	A.p.p. machinist.
12. José Otero	Havana	do	27	Sugar-maker.
13. Francisco Rivera, (recognized as Angustin Santa Rosa.)	do	do	42	Cigar-maker.
14. Oscar Varona	Puerto Principe ..	do	19	Student.
15. Justo Consuegra	Santa Clara	do	21	Cigar-maker.
16. William Valls	Puerto Principe ..	do	25	Commerce.

SURVIVORS.

17. Joseph Diaz	S. P. de los Baños ..	Married	29	Farmer.
18. Juan Herrero	Havana	Single	19	Cigar-maker.
19. Alfred Lopez	S. de las Vegas ..	do	34	Do.
20. José Ignacio Lamas	Matanzas	do	23	Engineer.
21. Andres Acosta	Güines	do	24	Mechanic.
22. Francisco Costello	Hegla	do	21	Student.
23. Benjamin Olazala	Puerto Principe ..	do	17	Engineer.
24. José Mateo	Havana	do	24	Cigar-maker.
25. Ramon Fardos	Jamalca	do	32	Cook.
26. Francisco Gonzales	Havana	do	33	Student.
27. Joseph Pelaez	Malaga	do	15	Do.
28. Leonard Alvarez	Santiago de Cuba ..	do	16	Silversmith.
29. Julio Arango	Puerto Principe ..	do	10	None.
30. José Hernandez	Havana	do	20	Merchant.
31. Nicolas Ramirez	Puerto Principe ..	do	23	Farmer.
32. Ignacio Quintin Beltran	Andalgo	do	35	Clerk.
33. Perfecto Hello	Havana	Married	24	Actor.
34. Benoit Globes	France	Single	34	Cook.
35. Nicolas Ruiz	Matanzas	do	26	Cigar-maker.
36. Juan Alvarado	Havana	do	34	Do.
37. Andres Villa	do	do	24	Do.
38. Ricardo Tujillo	Cienfuegos	do	20	Student.
39. Ramon Calvo	Havana	do	40	None.
40. Selverio Salca	Colon	do	26	Mason.
41. Rafael Pacheco	Havana	do	39	Cigar-maker.
42. Alexander Calvo	do	do	39	Commerce.
43. Canuto Guerra	Melena	do	22	Cigar-maker.
44. Canuto Sans	Havana	do	25	Mason.
45. Leon Bernal	Puerto Principe ..	Single	25	Agriculturist.
46. Emilio Garcia	Cardenas	do	20	Carpenter.
47. Gil Montes	Güines	do	23	Cigar-maker.
48. Rafael Cabrera	Havana	do	20	None.
49. Amador Rosillo	Bayamo	do	18	Farmer.
50. Ignacio or Francisco Tapla	Havana	do	24	Commerce.
51. Manuel Silverio	Bayamo	do	18	Do.
52. Santiago Rivera	St. Thomas	do	17	Trimmings.
53. Anto. Gomez	Havana	do	39	Cigar-maker.
54. Andrew Eschevarria	Holguin	Married	24	Agriculturist.
55. José Marin	Havana	Single	24	Carpenter.
56. Luis Martinez	Cuba	do	13	Baker.
57. Domingo Salazar	Havana	Widower	27	Cigar-maker.
58. Pedro Pajarin	Cardenas	Single	26	Do.
59. Manuel Padron	Havana	do	17	Do.
60. Alexd. Cruz Estrada	Canaries	do	20	Blacksmith.
61. Juan Soto	Havana	Married	28	Merchant.
62. Felix Fernandez	do	Single	29	Commerce.
63. Manuel Perez	do	do	29	Cigar-maker.
64. José Antonio Ramos	do	do	18	Do.
65. Ramon Barrero	do	do	19	Do.
66. Ignacio Valdez	do	do	23	Commerce.
67. Luis Morejon	Matanzas	do	16	Silversmith.
68. José Santisteban	Cobre	do	30	Carpenter.
69. Francisco Pacheco	Haiti	do	15	Tinsmith.
70. Evaristo Lunsunegui	Havana	do	17	Commerce.
71. Ramon Gonzales	Matanzas	do	18	Cigar-maker.
72. Antonio Chacon	Havana	do	30	Do.

List of one hundred and two passengers captured, &c.—Continued.

SURVIVORS—Continued.

Name.	Where from.	Married or single.	Age.	Occupation.
73. Sereno Otero	Colon	do	17	Student.
74. Carlos Pacheco	Havana	Married	34	Cigar-maker.
75. Antonio Padillo	Puerto Principe	Single	27	Machinist.
76. Henry Canals	Penar del Rio	do	22	Commerce.
77. Indeliso Turzillo	Güines	do	21	Tanner.
78. Domingo Diaz	Trinidad	do	23	Student.
79. Pedro Sariol	Havana	do	21	Cigar-maker.
80. Pedro Saez	do	Widower	23	Student.
81. Miguel Sayers	Santiago de Cuba	Single	18	Farmer.
82. Severo Mendive	Regia	do	20	Student.
83. Patricio Martinez	Havana	do	18	None.
84. Henry Alaya	do	do	29	Commerce.
85. Manuel Saumell	Manzanillo	do	13	None.
86. Domingo Rodriguez	Havana	do	30	Cigar-maker.
87. Luis Revollo	Trinidad	do	19	Commerce.
88. Antonio Rivera	Porto Rico	do	20	Machinist.
89. Carlos Marin	Havana	do	24	Student.
90. Ramon R. de Armas	Puerto Principe	do	25	Commerce.
91. Mannel Meneses	Philadelphia	do	28	Dentist.
92. Philip Mertzler	Charleston	do	21	Cigar-maker.
93. William Curtis	Jamaica	do	22	Tinsmith.
94. Samuel Hale	do	do	15	None.
95. Samuel Gray	Harrisburgh	do	31	Carpenter.
96. Sidney Robertson	Jamaica	do	20	Saddler.
97. George Winters	do	do	17	Shoemaker.
98. William Marshall	do	do	13	Apprentice.
99. Ehen Pinto	do	do	15	Cigar-maker.
100. George Brooke	do	do	13	App. painter.
101. Carlos Gonzalez	Matanzas	do	22	Cigar-maker.
102. Leopold Rizo	Havana	do	25	Lawyer.
103. One man, name unknown, said to have	escaped by jumping	overboard in	port.	

RECAPITULATION.

Total number of persons on board the <i>Virginus</i> at the time of her capture	155
Total of crew	52
Total of passengers	103
	155
Number of passengers executed on November 4, 1873	4
Number of passengers executed on November 8	12
Number of crew executed on November 13	37
Total number executed	53
Total of survivors of the crew	15
Total survivors of passengers	87
	155

[Inclosure 4 in No. 19.—Translation.]

Inhabitants of the Island of Cuba :

I have again to direct you my voice and in troublous times. Hear it, for it is the expression of the purest patriotism guarded by reflection.

You already know that an agreement has been celebrated between the government of Spain and that of the United States, in regard to a question of international law. Whilst it was in process of negotiation, it is needless to tell you that I did everything possible for me to do to favor the result most satisfactory for the honor and general interests of the island. You would assuredly suppose so, for I could not be wanting to the requirements of my charge nor to the favor of your confidence. But from the moment that the solution of the difference between the two governments was settled, the duty of authority, my unavoidable duty, which like all others I desire to fulfill, however painful it may be to me, is to execute faithfully what has been decreed. For this I have received decided orders. Want of compliance therewith would bring on war, war with a great power and war without the aid of Spain, to-day more than ever torn by fratricidal and intestine strife. Wherefore indicate to you the fatal con-

sequences of such an event? To again illustrate, in an unequal contest, the history of the Spanish people, would not save from imminent peril the integrity of the country, nor the immediate bombardment of the towns of our coast.

The situation we are now in is not new for us, nor would it be for any of the greatest empires, for all nations have had their day of adverse as well as prosperous fortune. True patriotism consists not in increasing public misfortunes, although impelled thereto by generous motives.

During the course of these lamentable events you have offered a high example of prudence. Not for a single instant has the tranquillity of the island been disturbed at any point. Continue thus to the end, however painful it may be for you to repress the ardor of your sentiments.

Let us trust that ulterior negotiations, followed in view of the original documents, which up to this it has not been able to present, and of communications more explicit than telegraphic, the only ones from which comes the agreement, will offer an occasion to balance justice and proceed to the rectification that the case demands.

Meantime, in obeying the law of necessity and the orders of the government of the Spanish republic, let us return, with her surviving crew, the steamer *Virginius*, which had already conducted, and was about again to conduct, munitions of war and officers and men to the camps of our enemies.

Let the people understand the extent of their duty; let not agitation diminish their dignity nor lessen the greatness of the sacrifice. Let us leave the entire facts to the impartial judgment of history.

Knowing you, I have beforehand guaranteed for the profound respect professed to the principal of the authority in this Spanish province. I depend upon the nobility of your actions to comply with my word.

Your governor and captain-general,

JOAQUIN JOVELLAR.

HAVANA, December 11, 1873.

No. 739.

Mr. Young to Mr. Fish.

No. 109.]

UNITED STATES CONSULATE,
Santiago de Cuba, Dec. 18, 1873. (Received December 30.)

SIR: I have the honor to transmit herewith a complete list of the persons taken from on board the United States merchant-steamer *Virginius*. I was present on board of the United States steamer *Juniata*, at the solicitation of Commander D. S. Braine, when the remaining prisoners were delivered on board this morning. Those checked are the persons delivered, and those not checked are the names of those shot. I improve this opportunity to send this direct, as the *Juniata* leaves this port for New York at 5 p. m. to-day.

N. A. YOUNG.

[Inclosure.]

List of one hundred and fifty-five people captured on board the American steamer Virginius by the Spanish steamer Tornado, brought to the port of Santiago de Cuba, and turned over to the authorities.

Name.	Where from.	Married or single.	Age.	Occupation.
1. Joseph Fry.....	United States.....	Married....	47	Captain merchant-vessel.
2. William Baynard.....	do.....	Single.....	37	Mate merchant-vessel.
3. James Floody.....	England.....	Married....	25	Do.
4. T. C. Harris.....	United States.....	do.....	45	Miner.
5. John N. Boza.....	Puerto Principe.....	do.....	37	Farmer.
6. B. P. Chamberlain.....	New York.....	Single.....	27	Engineer.
7. Francisco Sotero Frujillo.....	Bayamo.....	do.....	37	Do.
8. Edward Day.....	New York.....	Married....	32	Do.
9. Porfirio Corbison.....	Santiago de Cuba.....	Single.....	26	Commerce.
10. John Williamson.....	United States.....	do.....	35	Oilier.

List of 155 people captured on board the American steamer *Virginias*, &c.—Continued.

Name.	Where from.	Married or single.	Age.	Occupation.
11. Peter Alfaro	Havana	Single	26	Printer's clerk.
12. Thomas Grigg	Barbadoes	do	30	Mariner.
13. Frank Good	Jamaica	Married	37	Do.
14. Paul Rhuner	Ireland	Single	40	Fireman.
15. Barney Herrals	England	do	23	Do.
16. James Samuel	do	do	20	Mariner.
17. Henry Frank	Barbadoes	do	21	Coal-heaver.
18. James Read	Africa	do	40	Fireman.
19. Samuel Card	Nassau	Married	24	Mariner.
20. John Brown	United States	Single	22	Do.
21. Alfred Hoael	England	do	22	Do.
22. Walles Fied Price	do	do	20	Do.
23. George Thomas	Jamaica	do	23	Do.
24. Thomas M. Williams	England	Married	26	Fireman.
25. Ezequiel Dunham	Canary Island	Single	27	Mariner.
26. Simon Brown	Nassau	do	29	Waiter.
27. Leopold Thomas La Rose	United States	do	18	Cabin-boy.
28. Alonzo Arcey	Trinidad	Married	36	Farmer.
29. William Rose	Scotland	Single	23	Mariner.
30. John Stewart	Sta. Martha, Venezuela.	do	29	Do.
31. Henry M. Bond	England	Married	45	Do.
32. George Thompson	do	do	36	Do.
33. Ignacio Dueñas	Barranquilla, Colo	Single	27	Cook.
34. Antonio Deloyo	Bolivia	Widower	39	Mariner.
35. Jos. Man Ferran	Jamaica	Single	22	Cook.
36. Ramon Larramendi	Bayamo	do	27	Farmer.
37. Eusebio Gariza	Barranquilla, Colo	do	22	Do.
38. Bernabé Varona	Puerto Principe	do	27	Proprietor.
39. Pedro Cepodes	Bayamo	Married	47	No occupation.
40. Arthur Mola	Puerto Principe	Single	19	Agriculturist.
41. Francisco de Pomas	Havana	do	19	Cabinet-maker.
42. Luis Sanchez, (his real name, Herminio Quesada.)	Puerto Principe	do	18	Student.
43. Joseph Beitel	Cardenas	do	26	Agriculturist.
44. Augustin Varona	Puerto Principe	do	28	No occupation.
45. Salvador Pinedo	Neuvas	do	23	Merchant.
46. Henry Castellano	Güines	do	29	App. machinist.
47. Jesus del Sol	Cienfuegos	do	36	Farmer.
48. José Otero	Havana	do	27	Cigar-maker.
49. Francisco Rivera, (his real name, Augustin Sta. Rosa.)	do	do	40	Do.
50. Oscar Varona	Puerto Principe	do	19	Student.
51. Justo Conauegra	Sta. Clara, Cuba	do	25	Merchant.
52. William Valls	Puerto Principe	do	25	Commerce.
53. W. A. C. Ryan	Canada	do	28	Lawyer.
54. Charles Knight	England	Married	21	Engineer.
55. Henry King	United States	Single	27	Do.
56. William Wilson	Canada	do	24	Mariner.
57. Thomas Lindgly	Jamaica	do	18	Do.
58. Charles Debrosse	do	do	18	Printer.
59. William Danton	do	do	17	Tailor.
60. John Pothremonth	do	do	17	Tinsmith.
61. Edward Scott	Jamaica, U. S.	do	16	Do.
62. John Freemont	Curacao	Married	16	Mariner.
63. Nicolas Cardozo	Colombia	Single	14	Waiter.
64. José del Espiritu Santo	Jamaica	do	16	Cook.
65. Alfred Parker	United States	Married	31	Mariner.
66. Henry Knight	New York	Single	16	No profession.
67. Phillip Marty	Curacao	do	20	Engineer.
68. Antonio Constantine	do	do	14	On board Spanish gunboat Cuba Española.
69. Joseph Dais	San Juan de los Baños	Married	29	Farmer.
70. Juan Herrero	Havana	Single	34	Cigar-maker.
71. Alfred Lopez	Santiago de las Vegas.	do	19	Do.
72. José Irno. Lamas	Matanzas	do	23	Engineer.
73. Andrew Acosta	Güines	do	24	Mechanic.
74. Francisco Castello	Regla	do	21	Student.
75. Benjamin Olazaga	Puerto Principe	do	17	Engineer.
76. José Malleo	Havana	do	24	Cigar-maker.
77. Ramon Pardos	Jamaica	do	32	Cook.
78. Francisco Gonzalez	Havana	do	33	Student.
79. Joseph Pelaez	Malaga	do	15	Do.
80. Leonardo Alvarez	Santiago de Cuba	do	16	Silversmith.
81. Julio Arango	Puerto Principe	do	16	No profession.
82. José Hernandez	Havana	do	20	Merchant.
83. Nicolas Ramirez	Puerto Principe	do	23	Farmer.
84. Ingo Quintin Beltran	Andalgo	do	35	Clerk.
85. Prefecto Bello	Havana	Married	24	Actor.

List of 155 people captured on board the American steamer *Virginius*, &c.—Continued.

Name.	Where from.	Married or single.	Age.	Occupation.
86. Benoit Globes	France	Single	34	Cook.
87. Nicolas Ruiz	Matanzas	do	36	Cigar-maker.
88. Juan Alvarado	Havana	do	24	Do.
89. Andrew Villa	do	do	24	Do.
90. Ricardo Frujillo	Cienfuegos	do	20	Student.
91. Ramon Calvo	Havana	do	40	No profession.
92. Silverio Salos	Colon	do	26	Mason.
93. Rafael Pacheco	Havana	do	39	Cigar-maker.
94. Alexander Calvo	do	do	39	Commerce.
95. Canuto Guerra	Melena, Cuba	do	22	Cigar-maker.
96. Canuto Saenz	Havana	do	25	Mason.
97. Leon Bernal	Puerto Principe	do	25	Agriculturist.
98. Emilio Garcia	Cardenas	do	20	Carpenter.
99. Gil Montes	Güines	do	23	Cigar-maker.
100. Rafael Cabrera	Havana	do	20	No profession.
101. Amador Rosillo	Bayamo	do	18	Farmer.
102. Ingo, Francisco W. Tapia	Havana	do	24	Commerce.
103. Manuel Silveria	Bayamo	do	18	Do.
104. Santiago Rivera	St. Thomas	do	17	Trimmings.
105. Antonio Gomez	Havana	do	39	Cigar-maker.
106. Andrew Echerarria	Holquin	Married	24	Agriculturist.
107. José Martin	Havana	Single	24	Carpenter.
108. Luis Martinez	Cuba	do	13	Baker.
109. Domingo Salazar	Havana	Widower	27	Cigar-maker.
110. Pedro Pajarín	Cardenas	Single	26	Do.
111. Manuel Padron	Havana	do	17	Do.
112. Alexander Cruz Estrada	Canary Island	do	27	Blacksmith.
113. Juan Soto	Havana	Married	28	Mechanic.
114. Felix Fernandez	do	Single	28	Commerce.
115. Manuel Perez	do	Widower	29	Cigar-maker.
116. José Anto. Ramos	do	Single	18	Do.
117. Ramon Barrero	do	do	19	Do.
118. Ignacio Valdes	do	do	23	Commerce.
119. Luis Morejon	Matanzas	do	16	Silversmith.
120. José Santisteban	Cobre	do	30	Carpenter.
121. Francisco Pacheco	Porto Rico	do	15	Tinsmith.
122. Evaristo Sansunegeri	Havana	do	17	Student.
123. Ramon Gonzalez	Matanzas	do	18	Commerce.
124. Antonio Clacion	Havana	do	30	Cigar-maker.
125. Siereco Otero	Colon	do	17	Student.
126. Carlos Pacheco	Havana	Married	24	Cigar-maker.
127. Antonio Padilla	Puerto Principe	Single	37	Machinist.
128. Henry Canals	Pinai del Rio, Isele de Pino.	do	22	Commerce.
129. Indalecio Frujillo	Güines	do	21	Farmer.
130. Domingo Diaz	Trinidad	do	23	Student.
131. Pedro Sartol	Havana	do	21	Cigar-maker.
132. Pedro Saenz	do	Widower	23	Student.
133. Miguel Savera	Santiago de Cuba	Single	18	Farmer.
134. Severo Mendive	Regla, Cuba.	do	20	Student.
135. Patricio Martinez	Havana	do	18	No profession.
136. Henry Alaya	do	do	29	Commerce.
137. Manuel Saumell	Manzanillo	do	13	No profession.
138. Domingo Rodriguez	Havana	do	30	Cigar-maker.
139. Luis Rebollo	Trinidad	do	19	Commerce.
140. Antonio Rivera	Porto Rico	do	20	Machinist.
141. Carlos Marin	Havana	do	24	Student.
142. Ramon R. de Armas	Puerto Principe	do	25	Commerce.
143. Manuel Meneses	Philadelphia	do	28	Surgeon-dentist.
144. Philip Meitzler	Charleston	do	21	Cigar-maker.
145. William Curtis	Jamaica	do	22	Tinsmith.
146. Samuel Hale	do	do	15	No occupation.
147. Samuel Gray	Harrisburgh	do	21	Carpenter.
148. Sidney Robertson	Jamaica	do	20	Saddler.
149. George Winters	do	do	17	Shoemaker.
150. William Marshall	do	do	13	Apprentice.
151. Even Pinto	do	do	15	Cigar-maker.
152. George Burke	do	do	13	Apprent'e painter.
153. Carlos Gonzalez	Matanzas	do	22	Cigar-maker.
154. Leopold Rizo	Havana	do	25	Lawyer.
155. José Rudesindo	Barranquilla, Colo	do	25	Cook.

The one hundred and two names checked were delivered on board the United States steamer *Juniata*, Commander D. S. Braine commanding, this 18th December, 1873, in my presence.

A. N. YOUNG,
Consul United States America at Santiago de Cuba.

[The names checked in the MS. are those which are numbered from 54 to 155, inclusive in the above list.]

No. 740.

Mr. Hall to Mr. Davis.

No. 21.]

UNITED STATES CONSULATE-GENERAL,
Havana, December 20, 1873.

SIR: With reference to the case of the *Virginus* and the prisoners at Santiago de Cuba, I have to inform the Department that on the 18th instant I transmitted the following telegram from Rear-Admiral Scott, commanding North Atlantic fleet, at Key West, to the commanding officer of the United States naval forces at Santiago de Cuba:

KEY WEST, *December 18, 1873.*To HALL, *Consul-General:*

You will please forward this with all dispatch:

"KEY WEST, *December 18, 1873.**To the commanding officer of the United States naval forces at Santiago de Cuba:*

"You will notify the authorities of the place that the conditions have been reached in which, according to the protocol of November 29, between the Secretary of State and the Spanish minister, the salute to the flag of the United States will be spontaneously dispensed with by the Government of the United States, and that the ceremony of the salute is therefore no longer required under the agreement in pursuance of said protocol.

"G. H. SCOTT,

"Rear-Admiral, Commanding U. S. Naval Forces, North Atlantic Station."

On the 19th I was informed by the captain-general that the *Virginus* prisoners were delivered on the 18th instant to the United States steamer *Juniata*, and immediately advised the Department as follows:

The captain-general informs me that the *Virginus* prisoners were delivered yesterday to the commander of the *Juniata*.

Subsequently the following telegram from Commander Braine, of the *Juniata*, came to hand, and was transmitted, as directed, to the Secretary of the Navy:

HAVANA, *December 19.*To the SECRETARY OF THE NAVY, *Washington:*

Commander Braine telegraphs you as follows:

"SANTIAGO DE CUBA, *December 18.*

"The prisoners of the *Virginus* have been delivered to-day, December 18. I shall sail to-day for New York. The *Kansas* and *Canadaigua* are here waiting orders.

"D. L. BRAINE,

"Commander."

I have, &c.,

HENRY C. HALL.

IV.—MISCELLANEOUS CORRESPONDENCE.

No. 741.

[Original handed to the Secretary of State by the Secretary of the Navy, December 2, 1873.]

*Commander Cushing to Mr. Robeson.*UNITED STATES CONSULATE,
Santiago de Cuba, November 16, 1873. (Received December 2.)

SIR: As a steamer is unexpectedly about to leave here for Havana in an hour's time, I write this at the consulate, as I have not time to go off to the ship and do so. I left *Aspinwall* on the morning of the 11th

instant, in consequence of urgent telegrams from the United States vice-consul in Santiago. He represented the urgent need of a man-of-war, and had received no answers to his dispatches to the consul-general in Havana. He described the shooting of the captain and a large portion of the crew of the *Virginus*, and said that more American lives were in immediate peril. I deemed it my duty, therefore, to take the responsibility of coming here.

The trial took place before a drum-head court-martial, ordered by the commanding general of this department, and fifty-three men were summarily shot.

There are more in prison who are subject to the same fate if tried. Our vice-consul was treated with great disrespect by the Spanish general when he made his protest. I inclose herewith a copy of letter that I have to-day sent to the commanding general. I will send all correspondence by the next opportunity. The court-martial and shooting were authorized on the sole responsibility of the general to whom I have written. The British steamer *Niobe* is here, and has demanded that none of the British citizens that are imprisoned shall be executed until the whole matter is investigated by the higher powers. I shall await the orders of the Department, and protect American citizens in the best manner that is possible. I do not think that any more of the *Virginus*' crew will be executed at present, or that the court-martial will try them until orders are received from Havana. I will write by the regular steamer leaving two days hence, and give a detailed account of matters here, and my full reasons for coming, inclosing the telegrams received at Aspinwall that induced me to leave there. Our vice-consul here sorely needed backing, and has sent complaints to the consul-general at Havana regarding the insulting letters and personal behavior of the general who commands this district, in answer to his proper official protests against the barbarous order of the general to treat the crew of the *Virginus* as pirates. When this matter is over we can return to Aspinwall, as we left some important matters there unsettled.

I am, &c.,

W. B. CUSHING.

[Inclosure.]

Commander Cushing to General Burriel.

UNITED STATES STEAMER WYOMING,
Santiago de Cuba, November 16, 1873.

SIR: I have the honor to address you this communication regarding the capture on the high seas of the United States merchant-steamer *Virginus*, and the events succeeding such capture. From an inspection of the official books at the United States consulate at Kingston, Jamaica, I find that the *Virginus* cleared from that port for Port Limon on the 3d day of October, 1873. Her sailing-papers, including register and all necessary documents coming under the supervision of the United States consulate, were all certified by the proper authorities. She sailed in ballast, but took out sixty-four haversacks. On the 31st day of October this vessel was pursued and captured something like seventy miles from Cuba.

The *Virginus* has now been sent to Havana to the jurisdiction of the court of admiralty. The question of the lawfulness of this capture on the high seas and out of the jurisdiction of Cuban or Spanish authority is one to be decided, first, by the courts of the captor, after which, if which, (*sic*) if the decision is not in conformity with the accepted customs and laws of nations, the United States Government may reclaim the vessel. The rule of international law in such a case is as follows: "The jurisdiction of the court of the capturing nation is conclusive upon the question of property in the captured thing; its sentence forecloses all controversy respecting the validity of the capture, as between claimants and captor and those claiming under them, and

terminates all ordinary judicial inquiry upon the subject-matter. But where the responsibility of the captor ceases, that of the state begins. It is responsible to other states for the acts of the captors under its commission, the moment these acts are confirmed by the definite sentence of the tribunals which it has appointed to determine the validity of captures in war." I therefore content myself with making protest, on behalf of the nation that I represent, and shall leave that subject to the determination of the laws that are sure to follow it and reach it. In reading the correspondence between your excellency and the consul of the United States in regard to this matter, I see that your excellency repeatedly terms the *Virginius* a pirate. I must respectfully insist that the *Virginius* was in no sense a pirate. The definition of the word pirate in standard works on international law, and by the general agreement of civilized nations from ancient to modern times, is, that of a vessel committing the offense of depredating on the high seas without being authorized by any sovereign state. "Pirates being the common enemies of all mankind," such a vessel may be captured on the high seas by the armed vessels of any nation, and taken into port for trial under the jurisdiction of its tribunals. Piracy, under the law of nations, may be tried and punished by the courts of justice of any nation, by whomsoever or where-soever committed; but piracy created by municipal statute can only be tried by that state within whose territorial jurisdiction and on board of whose vessels it was committed." So far from being a pirate, as defined by international law, the *Virginius*, if offending at all, was simply a neutral vessel carrying contraband of war, "a blockade-runner," or at most a smuggler. She was unarmed, and was lawfully furnished with sea-papers, entitling her to navigate the high seas in safety from all men. If attempting to enter a port that was closed by proper authority, and so watched by armed vessels of the state approached that it in fact became a blockaded port, a vessel of a neutral country might, under the laws and agreement of nations, attempt to carry in arms and any contraband of war, subject only to the penalty of capture in transit and confiscation of ship and cargo. No other punishment is permitted by the universal law of nations, to which each individual state must consent. A sovereign state, through its commissioned agents, violating or exceeding such laws, brings itself not only into serious complications with the nation whose flag and authority the captured vessel bore on the high seas, but it also comes directly in hostile contact with the agreed laws and customs of all civilized nations.

Such, I do not hesitate to affirm respectfully to your excellency, is the basis upon which I question the summary trial, conviction, and execution of the captain of the *Virginius* and all citizens of the United States of America who belonged to his crew. In the eye of the nations of the earth and their well-defined laws, sanctioned by the tests and trials of centuries, such trial and execution is simply murder. I earnestly protest in the name of my country against what has been done, nothing doubting but that the Government of the United States will know how and when to protect its honor. I solemnly protest against the imprisonment or other punishment of any of the living members of the crew or passengers who are either born or naturalized citizens of the United States. I request your excellency earnestly to cease these executions, which must lead to most serious complications. I shall send a copy of this letter to my Government at my earliest convenience, and I respectfully request you to send a copy to his excellency the captain-general at Havana.

Very respectfully, &c.,

W. B. CUSHING.

No. 742.

Mr. Fish to Mr. Bliss.

DEPARTMENT OF STATE,
Washington, November 23, 1873.

SIR: At half past three o'clock this afternoon the Spanish minister hands me a notice of which the inclosed is a copy.

I have not time to take the President's instructions with respect to it and to communicate them to you by this evening's mail. I therefore inclose the notice, that if it be deemed advisable that any person appear on behalf of this Government you may know at the earliest moment, and may make such inquiry as you shall deem necessary or proper, to cross-examine the witness, &c.

I will telegraph you in the morning whether the President wishes you to be present.

I had written to the collector of the port for information respecting the *Virginus* yesterday; possibly he may have some information that may be important in the event of the Government taking part in this examination.

I write in great haste.

Very respectfully, &c.,

HAMILTON FISH.

No. 743.

Mr. Fish to Mr. Bliss.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 24, 1873.

The President desires the examination mentioned in my letter of yesterday to be attended on the part of the Government, and the facts of the case to be fairly and fully ascertained. He wishes no delay interposed; but if you think it necessary for the full ascertainment of the facts, you will continue or adjourn the examination.

HAMILTON FISH,
Secretary of State.

No. 744.

Mr. Fish to Mr. Bliss.

DEPARTMENT OF STATE,
Washington, November 24, 1873.

STB: I inclose herewith a copy of the deposition of F. E. Shepperd, former master of the steamer *Virginus*, taken before Commissioner Joseph Gutman, jr., in May, 1872, in relation to that vessel, and also copies of affidavits of Thomas Anderson and George Miller, seamen on the *Virginus* at the time Captain Shepperd was master.

It is possible you may find a reference to the statements made by these witnesses of some advantage to you in the cross-examination of the witnesses now about to be examined on questions connected with the *Virginus*.

I have to request that you will return the inclosed papers to this Department. As there is no other copy in the Department, it is quite important these should be preserved for its files.

I am, &c.,

HAMILTON FISH.

SOUTHERN DISTRICT OF NEW YORK, ss: .

Francis E. Shepperd, being duly sworn, deposes and says:

First. That he is a resident of Warrenton, in the State of Virginia, and was master of the steamer *Virginus* from the first week in September, 1870, to the 12th day of November in that year, when he left the said steamer at Puerto Cabello, in Venezuela.

Second. That he has read the affidavits of Thomas Anderson and George W. Miller, annexed to this his deposition, and that the same are true, except that porcion in which the deponents state what happened in the cabin of the said steamer *Virginus* after taking on board the cargo of the *Billy Butts*. The amount of money referred to in the said depositions, as placed in the hands of this deponent for the crew, was \$300 in gold, and a draft on Domingo Ruiz, of New York, by Emanuel Quesada, for the sum of \$2,000. In other particulars the said depositions are true.

Third. That this deponent was employed by I. K. Roberts, of the city of New York, in the month of September, 1870, to navigate and command the said steamer *Virgin*, alias *Virginus*, from the navy-yard at Washington, in the District of Columbia, to the port of New York, which service he rendered during that month; that this deponent was afterward informed by the said Roberts that he had purchased the said steamer from the United States Government, as agent of certain Cubans, among whom he named José A. Mora, of the city of New York, and the aforesaid General Quesada; that the said Cubans, including the said Mora and Quesada, furnished the money for the purchase of the said steamer, and also to pay for the repairs and supplies which were subsequently put thereon; that the said Mora subsequently exhibited to this deponent receipts signed by the aforesaid Roberts, or one J. F. Patterson, for the said purchase-money and disbursements aforesaid.

Fourth. That the aforesaid steamer, thus purchased by Roberts as the agent of the said Mora, Quesada, and others, was formally placed in the name of the said J. F. Patterson, and so registered in the custom-house at New York.

Fifth. That about two weeks after the arrival of the said steamer in the harbor of New York from the navy-yard at Washington, the said Roberts informed this deponent that the said steamer was owned by the aforesaid Mora and Quesada with other Cubans, and that she was about to embark in the business of running the Cuban blockade, and other things in behalf of the Cubans, and the said Roberts asked this deponent if he would be willing to take command of her in such business; that this deponent then inquired of the said Roberts particularly in regard to the precise character of the business in which she was about to engage, and was told that he, the said Roberts, would introduce this deponent to the said Mora and Quesada, which he did on that night.

Sixth. That this deponent thereupon, on that evening, had an interview at the house of the aforesaid Mora, in the city of New York, with the aforesaid Mora, Quesada, Roberts, and Patterson, and a number of other Cubans who were present; that, at said interview, the said Quesada and Mora fully admitted their ownership of the said steamer, and finally an agreement was entered into, by which this deponent was to retain the command of the ship under the directions of the said Quesada; that at said interview the said Mora and Quesada first suggested that the said steamer should proceed in ballast from New York to Ferdinandina, in the State of Florida, there take on board the said Quesada, his military staff, and a small quantity of arms, proceed thence to Laguayra, Venezuela, subsequently taking on board more arms and munitions of war; that at Puerto Cabello soldiers were to be taken on board and conveyed to the island of Cuba in aid of the insurrection. But at the suggestion of this deponent the voyage was changed so that no landing would be made at Ferdinandina, but the vessel proceed direct to the island of Curaçoa.

Seventh. That this deponent further states that at the aforesaid interview at the said Mora's house, and subsequently in the city of New York before the departure of the said steamer on her voyage, the said Mora, in speaking to this deponent in regard to inducements for his undertaking the risk of the voyage, stated that doubtless there would be opportunities for this deponent to make a good deal more than the sum agreed upon for his compensation through the possibility of his being able to capture and confiscate the cargoes of any Spanish merchant-vessels that he might fall in with on the cruise. This possibility was more than once referred to by the said Mora in speaking to this deponent; and this deponent did, at that time, understand and believe that it was among the purposes of the said Mora and the said Quesada to use the said steamer to capture or destroy Spanish merchant-vessels on the high seas.

Eighth. That the said steamer departed from the port of New York, as is set forth in the aforesaid affidavits of Anderson and Miller, took on board the aforesaid Quesada and his party, as therein described, and proceeded to the island of Curaçoa, and arrived there at the time stated in the aforesaid affidavits; that when not far from the island of Hayti, the said steamer came near a sailing-vessel, the nationality and character of which could not at first be discovered. Soon after said vessel was seen, General Quesada, through his interpreter, Dr. Varona, suggested to this deponent the propriety of capturing the said vessel, should she turn out to be a Spaniard; that this deponent only formally objected to the proceedings, stating that in order to do so the said Quesada with his party would have to appear to have taken forcible possession of the ship by putting this deponent and the first officer in irons, which plan was agreed upon; but it turned out that the vessel in sight was English and not Spanish.

Ninth. That this deponent left the said steamer at Porto Cabello on or about the

middle of November, and within two months thereafter arrived in the city of New York, where he had an interview with the aforesaid Patterson and Mora; that at such interview the said Patterson complained to said deponent that he, as captain of the said steamer, had not taken advantage of the formal paper-title of the said Patterson and brought the steamer to New York; that this deponent represented to the said Mora the complaint of the aforesaid Patterson, and thereupon the said Mora denied that the said Patterson had any real ownership in the steamer, and exhibited to this deponent receipts for the purchase-money thereof, and for the supplies and repairs put thereon in the port of New York before her departure.

Tenth. That this deponent did not regard the *Virginus* as a cruiser or privateer, though it was suggested to this deponent by the said Quesada, as before stated, to use her to capture Spanish merchant-vessels should she fall in with any, but that the principal object of her service, and for which this deponent was employed, was to land troops and arms on the island of Cuba.

Eleventh. That this deponent cannot, at this late day, enumerate correctly or specify particularly the receipts referred to as shown him by the said José A. Mora, but from the conversation this deponent had with said Mora regarding the purchase-money and the disbursements of the said steamer, together with the receipts shown him by the said Mora, this deponent was informed, beyond a doubt in his mind, that the said steamer *Virginus* was the property of certain Cubans, together with and represented by the said Mora and the said Quesada and the said Manuel Ruiz, and that the said Mora informed this deponent that such was the case, and, moreover, explained to this deponent in part the manner in which the funds were raised for the purchase of said steamer and the disbursements of her voyage and enterprise.

The deponent having made the foregoing declaration, he was examined by H. E. Davies, jr., esq., assistant district attorney for the southern district of New York, who appeared in behalf of the Department of State of the United States at Washington, and deposed as follows:

The vessel called by me the *Virgin* and *Virginus* are identical, both referring to the same vessel. My first employment for this vessel came from Mr. Roberts, who is an American citizen. He told me he had a vessel at Washington which he wished me to bring to New York. These instructions were given me in New York. I then went to Washington for the vessel, and I found her at the navy-yard. Mr. Roberts accompanied me, and I went on board and took possession of her by virtue of consent obtained by him from the officers of the navy-yard. I shipped a temporary crew in the District of Columbia, and in a few days thereafter I sailed the vessel to New York. The vessel was not cleared at the custom-house at Washington, but left under a letter from the Treasury Department, she having been bought from the Government. On arriving at New York, I took her first to Hoboken, and a few days thereafter to the dry-dock on the East River in New York, in which she remained about two days; then took her to the Knickerbocker Ice Company's wharf, North River, where she lay until ready for sea. On reaching New York, I discharged all the crew that I shipped in the District of Columbia, except about three. The first knowledge I had of her registered ownership was on the day of taking out the papers at the custom-house, which was the day of sailing. One J. F. Patterson was there and there registered as her owner. I found him so registered. I know Mr. Patterson. He is an American citizen. Mr. Roberts did not mention the names of the parties who owned the vessel, but said to me previous to her departure from New York that she belonged to them, meaning certain Cubans, but that she would have to be in his name, as they, meaning certain Cubans, could not own an American vessel, and also to prevent interference on the part of the United States authorities. Mr. Roberts told me that the vessel was to be engaged in running the Cuban blockade, and in other things. He did not specify anything beside running the blockade. Mr. Mora intimated to me, while speaking to me about my pay, that in case I fell in with a Spanish merchant-vessel I would make a great deal more than what my pay itself would amount to. Mr. Mora was the person with whom I made my bargain and with whom I agreed upon the terms under which I would go. Mr. Roberts brought me to Mr. Mora. Mr. Mora gave me no instructions to look out for Spanish ships and capture them. I did not regard that as a thing I would do or as anything that I had been ordered to do by the owners of the vessel at the time of sailing. When we cleared from New York, that is, I mean, when we left the wharf, we had nothing on board but coal and provisions and about twenty empty tierces and three thousand feet of plank and scantling. I took on board General Quesada inside of Sandy Hook, with some eighteen or nineteen others. They came as passengers, intending to go to Curaçoa, that being the point to which the vessel was cleared. They had a small quantity of arms in five or six boxes, which contained pistols, ammunition, and a few rifles. We proceeded then direct to Curaçoa. General Quesada, while on board of the vessel, generally communicated with me through an interpreter. When Quesada proposed to me to capture a vessel, supposed to be a Spanish vessel, I objected. I declined to take any part in the proceeding. The steamer was not armed when she left New York; had no guns on board nor any equipments of war as a cruiser. She

was provisioned beyond what was necessary for her own crew and the passengers we took on board, I mean with respect to the staple articles, such as bread and meat. We had about 100 barrels of bread, I think, and about a dozen barrels of pork. We put these into the fore peak, separate from the ship's provisions. We reached Curaçoa about the 12th or 13th of October. While in that port we took on board nothing of a warlike character; did not add to our equipment in any way. When we took on board supplies from the Billy Butts, we took no ship's guns—no guns except the four brass howitzers mentioned in the annexed depositions. After getting these goods on board, the men demanded to know the object of the voyage. I consulted with Quesada, and then informed them that the ultimate object was to land men and arms on the island of Cuba. These were the only specified objects of the voyage. I told them we were going to Laguayra before reaching Cuba, and that they could be discharged there and sent home if they so wished. We first went to Laguayra after leaving Curaçoa, and there General Quesada and a portion of his staff left us. We then went to Porto Cabello, which is about fifty miles from Laguayra. About three weeks after arriving at Porto Cabello I resigned command and left the vessel. At the time of resigning I wrote a letter to the consul at that place, stating what is contained in the copy of a letter hereto annexed, marked A. The statements contained in that letter were all true. From Porto Cabello I returned to New York. Here I met Mr. Patterson, the owner of the vessel. He complained that I had not protected his rights in not bringing the vessel home to the United States. My reason for leaving the vessel was that it was intimated to me by General Quesada that she was to go into the Venezuelan service, and from the preparations ordered by him to be made such was clearly indicated. At Porto Cabello the voyage ended, Quesada insisting on a new enterprise, and one not contemplated by the owners or myself before we left New York, and the character of which Quesada refused to divulge to me. I therefore left the vessel and also the seamen on board the firemen and engineers.

F. E. SHEPPERD.

Subscribed and sworn to before me this 2d day of May, A. D. 1872.

JOSEPH GUTMAN, JR.,

United States Commissioner, Southern District of New York.

EXHIBIT A.—J. G., Jr.

PUERTO CABELLO, VENEZUELA,

December 9, 1870.

SIR: For your own satisfaction, as well as for the information of whom it may concern, I beg to state that during the time I commanded the steamer *Virginus* she violated no law or custom of commerce, and never exhibited any other than the American flag; that she cleared and entered regularly at each port, and, so far as I know, she is intended as nothing else than an ordinary merchant-vessel.

Yours, very respectfully,

F. E. SHEPPERD.

Dr. A. LACOMBE,

United States Consul, Puerto Cabello.

SOUTHERN DISTRICT OF NEW YORK, ss:

Thomas Anderson, being duly sworn, deposes and says:

1. That he is a seaman by profession, aged about thirty-two years.
2. That on the 3d of October, 1870, in the city of New York, he shipped as a seaman on board the steamship *Virgin*, and signed articles for a voyage to the coast of Florida, the Caribbean Sea, and the Gulf of Mexico; that Frank E. Shepperd was captain, and there were also on board two mates, a carpenter, four seamen, three engineers, two oilers, and fifteen firemen and coal-passers; the said ship left the port of New York on her voyage on the 4th day of October, 1870.
3. That, in the afternoon of that day, the steamer proceeded down the bay of New York, and when three or four miles outside, and abreast of Sandy Hook, met the steam-tug *Virginia Seymour*, and took therefrom eighteen passengers, whom this deponent judged, by their appearance, to be Cubans, together with General Quesada, Mr. Mora, and Eloy Camacho. There were also taken on board a few boxes, some of which this deponent saw open, containing ammunition, revolvers, military trumpets, and flags, and, after shipping the before-mentioned persons and things, the steam-tug *Seymour* left, taking with her the pilot of the *Virgin*, whom, as he was going on board the tug, this deponent heard the captain of the vessel tell not to say anything about it.

4. That, after the tug left, the Virgin proceeded on a course down the coast, and on Saturday, the 15th day of October, at 10 o'clock in the morning, reached Curaçoa Harbor, in the island of Curaçoa; that she lay in that harbor till the next Tuesday, when the schooner Billy Butts, from New York, arrived; that, about the middle of the next day, Wednesday, the schooner put out to sea again, and in the evening of the same day the steamer Virgin proceeded after her and took and kept the schooner in tow until the next morning, when they reached a small island called Buenayre, which lies about thirty miles to the southward and eastward of Curaçoa, where the cargo on board the schooner was transferred to the steamer.

5. This deponent saw the cargo transferred from the schooner to the steamer as aforesaid, and assisted therein, and he knows of his own knowledge that it consisted of about five hundred cases of shot, shell, and ammunition; over one hundred cases of arms; two or three dozen boxes of leather goods; a dozen or so of caps; about six carriages for guns; and six or eight boxes of hardware. There were also four brass cannon.

6. That, on the afternoon of the next Friday, the steamer having taken on board the cargo as before mentioned, proceeded to the port of Laguayra, on the northern coast of Venezuela, where she arrived at 9 o'clock in the morning of the next day, Saturday, the 22d of October.

7. After the cargo of the schooner Billy Butts had been taken on board, and the steamer was ready to proceed on her voyage, the seamen, engineers, and crew all collected on deck, amidships, and demanded of the captain, who was standing on the bridge above, where they were going. He answered, "To Laguayra." The crew then demanded a guarantee of some kind that the steamer was going to Laguayra, and not to Cuba. Thereupon the captain with some of the Cubans went down into the cabin, followed by some of the crew, and there the Cubans placed in the hands of the captain a large sum of money as security that the steamer should go to Laguayra, as promised, and all hands then went to work, and the steamer got under way, and arrived at Laguayra as before stated, where Quesada, with two or three of the Cuban passengers, went ashore and did not return to the steamer.

8. That, on the evening of the next day, Sunday, the 23d of October, the steamer left Laguayra and proceeded due west to Porto Cabello, on the coast, where she arrived at 6 o'clock on the evening of the next day, which was Monday, where the steamer lay until the 11th day of November.

9. That, after the arrival at Porto Cabello, this deponent saw the steam gunboat Oriental, armed with four guns and flying the Venezuelan flag, sail out and proceed in the direction of Laguayra; and before this deponent left Porto Cabello the said gunboat returned, having on board General Quesada and the Cubans who left the Virgin with him as before mentioned at Laguayra; and, immediately after General Quesada came on board the Virgin, she was directed to haul alongside the wharf to take in coal, which was immediately done, and then Quesada ordered the whole ship's crew of the Virgin to come aft, where a person standing immediately in front of Quesada announced that he, Quesada, wished to know who of the ship's crew were willing to go under Quesada's command, adding that those who did not wish to go would be sent home. This deponent thereupon, together with a number of coal-passers and firemen, and all the seamen, left the ship; but a portion of the firemen subsequently returned. The captain of the Virgin subsequently left that steamer. That this deponent remained in Porto Cabello some twelve days after leaving the steamer as aforesaid. The Virgin, after she left, proceeded along the coast to the eastward, and this deponent was told by the firemen on board of her that she transported troops from one place to another along the coast, and when the Virgin returned to Porto Cabello she had two cannon mounted on her deck, as this deponent himself saw.

10. That, on the morning of the 24th day of November, this deponent was in Porto Cabello, and saw the steamer Virgin take in tow the armed gunboat Oriental before mentioned, and proceed out to sea. On the evening of that day this deponent left and proceeded to Philadelphia, and thence to New York.

THOMAS ANDERSON.

Sworn before me this 21st day of December, 1870.

[SEAL.]

H. J. BEGLY,
Notary Public.

SOUTHERN DISTRICT OF NEW YORK, ss:

George W. Miller, being duly sworn, deposes and says:

1. That he is by profession a seaman, aged about twenty-five years.
2. That deponent shipped on board the Virginius, formerly called the Virgin, about the 3d of October last past. That he has heard read the affidavit of Thomas Anderson, dated 21st of December instant, and says that the same is in every respect true.

3. That upon meeting the tug Virginia Seymour, as in paragraph three of said affi-

davit, he saw his brother-in-law, Edward Perry, on said tug, who held the position thereon of second pilot. This deponent then asked his said brother-in-law where they in the *Virginus* were going to, and the said Perry replied that they in the said steamer were going to Cuba, and that the persons who were then going on board the *Virginus*, as mentioned in said paragraph, were Cuban officers.

4. That the *Virginus* proceeded on her course as stated in said affidavit, and as mentioned in paragraph seven thereof. This deponent was one of those who went down into the cabin and saw the money deposited by one of the Cubans as security that the ship should proceed to Lagnayra and not to Cuba; and at this time the captain of the *Virginus* and General Quesada informed them that each sailor should have \$150 when they reached Lagnayra.

5. From Lagnayra the *Virginus* proceeded to Porto Cabello, where she discharged all her cargo, consisting of rifles, cannon, ammunition, and stores, with the exception of two twelve-pound howitzers, and placed part of her said cargo in the fort, and part thereof upon the gunboat *Oriental*.

6. That after remaining at Porto Cabello some twelve hours, General Quesada sent his interpreter—by name Verona—in a small boat, in which this deponent was an oarsman, a short distance from the steamer, toward the fleet of Venezuelan insurgents which was lying there; and the said Verona, when about half way, was met by the commander of the said vessels. A conversation then took place between them, during which a small island, about three miles from the harbor, was pointed out by the said commander to said Verona. Some hours afterward, at five in the evening, General Quesada left the *Virginus* in the said small boat, this deponent being therein, and the said Quesada had no more than left the steamer before he made his way to the bow of the boat and tied a Cuban flag to the staff. The boat then proceeded to the before-mentioned island, where the said commander again met them and had a conversation of some two hours' duration with Quesada.

7. On the 24th day of November, the *Virginus* left Porto Cabello, taking the said gunboat *Oriental* in tow, and proceeded under full steam out to sea, and in about nine hours—at six o'clock in the evening—came within hail of seven schooners, of which the *Virginus* took five in tow, and the gunboat the other two, and proceeded to Lagnayra. The *Virginus* remained there about eight hours, and then started for the island Curacoa, mounting a couple of small cannon on deck as she proceeded. Quesada was then in chief command, Captain Shepperd having left the steamer at Porto Cabello because Quesada would not inform him where the steamer was bound for. This deponent left the ——— at Curacoa, and arrived last Tuesday at this port.

GEORGE MILLER.

Sworn to before me this 24th day of December, 1870.

[SEAL.]

H. J. BEGLY,
Notary Public.

UNITED STATES OF AMERICA,
Southern District of New York:

I, Joseph Gutman, jr., a commissioner duly appointed by the circuit court of the United States for the southern district of New York, in the second circuit, under and by virtue of the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24, 1789, do hereby certify that on the 2d day of May, in the year of our Lord one thousand eight hundred and seventy-two, I was attended by Sidney Webster, esq., counsel for the Spanish legation, and by Henry E. Davies, jr., esq., assistant United States attorney, on the part of the Department of State of the United States of America, and by Francis E. Shepperd, the witness, who was of sound mind and lawful age; and the witness was by me first carefully examined and cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, and the foregoing deposition was, by my clerk, reduced to writing in my presence, and in the presence of the witness and from his statement, and after carefully reading the same to the witness he subscribed the same in my presence; all of which I do hereby declare, publish, and certify.

In testimony whereof I have hereunto set my hand and seal this 2d day of May, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States the ninety-fifth.

[SEAL.]

JOSEPH GUTMAN, JR.,
United States Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of New York, in the Second Circuit.

No. 745.

Mr. Bliss to Mr. Fish.

OFFICE OF THE DISTRICT ATTORNEY OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK,
November 24, 1873. (Received November 25.)

SIR: I beg to acknowledge the receipt this morning of your favor of yesterday, transmitting a copy of notice given by the minister plenipotentiary of Spain that certain witnesses are to be examined to-morrow before Commissioner Gutman as to the history and ownership of the *Virginus*. I have also received your dispatch of this date directing me to appear and cross-examine the witnesses.

I will attend to the matter in person and advise you of the result. I have obtained, in accordance with your suggestion, all the information which the collector of the port is able to furnish.

Yours, &c.,

GEORGE BLISS.

P. S.—Your second dispatch just received.

 No. 746.
Mr. Fish to Mr. Robeson.

DEPARTMENT OF STATE,
Washington, December 2, 1873.

SIR: I have the honor to return, with my best thanks, the original letter of Commander Cushing, dated Santiago de Cuba, November 16, 1873, reporting his proceedings in the case of the *Virginus*, and covering a letter addressed by that officer to the general commanding the department of Santiago.

It is hoped that Commander Cushing's letter to General Burriel may not be considered as committing this Government on several of the many points advanced therein.

I have, &c.,

HAMILTON FISH.

 No. 747.
Mr. Fish to Mr. Robeson.

DEPARTMENT OF STATE,
Washington, December 8, 1873.

Confidential.]

SIR: I have the honor to inclose ten copies of an arrangement made this day between me and the Spanish minister for the surrender of the *Virginus*, and the survivors of those who were on board of her when captured, and for the salute to the flag, should one be made, and ten copies of the message of the President, with the protocol of the 29th November, on the same subject. Referring to our conversation this afternoon, may I request that the proper instructions may be given

without delay and in the manner indicated by you verbally, or in such other way as may seem to you best, in order that the said arrangement may be promptly carried out ?

I have, &c.,

HAMILTON FISH.

P. S.—The copies referred to were delivered to Mr. Robeson personally this p. m.

No. 748.

Mr. Fish to Mr. Williams.

DEPARTMENT OF STATE,
Washington, December 11, 1873.

SIR: On the 29th ultimo, at a conference between the Spanish minister and myself, it was agreed that should Spain, before the 25th day of December, current, prove to the satisfaction of the Government of the United States that the steamer *Virginus* was not entitled to carry the flag of the United States, and was carrying it at the time of her capture without right, and improperly, then the salute which Spain was to give to the flag of the United States on that day should be spontaneously dispensed with, as in such case not being necessarily requireable. A copy of a protocol of the conference, in which this agreement is reached, is hereto annexed.

I received yesterday from Admiral Polo, the Spanish minister, a note* transmitting various documents, which, he states, prove, in his opinion, that the steamer *Virginus* had no right, at the time of her capture, to use the flag of the United States, and I understand this to be the evidence upon which his government relies to substantiate that fact.

The President instructs me to lay before you this note from Admiral Polo, with its inclosures, which I now do, inclosing herewith a translation of the note, and the original of the evidence inclosed in it; and I will thank you to return both these papers to this Department when you have done with them.

The President desires your opinion upon the force of this evidence, whether it does substantiate to the reasonable satisfaction of this Government that the *Virginus* was not entitled to carry the flag of the United States, and was carrying it, at the time of her capture, without right, and improperly.

It is proposed that the salute, should it take place, shall be made in the harbor of Santiago de Cuba. Orders have already gone to the commanders of United States vessels who are expected to be in that harbor on the 25th instant, to notify the proper Spanish officials, on that day at noon, of a readiness to receive and return the salute, unless previously informed of its waiver by this Government; and in order that a counter order (should one become necessary) may reach there in time, it is desirable that your conclusions on the inclosed documents should be made known to this Department as early as the morning of the 16th instant. I take the liberty, therefore, to ask that it may be furnished by that day.

I have, &c.,

HAMILTON FISH.

No. 749.

*Mr. Fish to Mr. Williams.*DEPARTMENT OF STATE,
Washington, December 12, 1873.

SIR: Referring to my communication of yesterday, I have now the honor to submit for your consideration a copy in translation of additional affidavits in the matter of the *Virginus*, received from the Spanish minister here. I will thank you to return the inclosed papers when you have done with them.

I have, &c.,

HAMILTON FISH.

GOBIERNO SUPERIOR POLITICO SECRETARIA NEG'DO POLITICO,
Harana, December 2, 1871.

MOST EXCELLENT SIR: To be used as your excellency may deem convenient, I have the honor of inclosing the testimony, taken in due legal form, given by two of the crew of the last expedition of the *Virginus*, who presented themselves, and whose depositions were taken, in the presence of the consuls of the United States of America and of Venezuela.

May God, &c.,

The COUNT VALMASEDA.

His Excellency the MINISTER OF SPAIN *in Washington.*FISCALIA MILITAR PERMANENTE DE ESTA PLAZA,
Plaza de la Harana, 1871.

Examination of the Venezuelan prisoners of war, Anselmo Villarreal and Gervasia Parra, who testify in the presence of the consuls of the United States and of Venezuela, whose signatures are hereunto attached.

Fiscal magistrate Don ANTONIO BERTRAM ARNULTE,
*Lieutenant-Colonel of Infantry.*Secretary D. ROMAN PARDINA Y MUR,
Commander, Captain of Infantry.

Don Roman Pardina y Mur, captain of infantry and secretary on the trial of the prisoners of war, Anselmo Villarreal and Gervasio Parra, Venezuelans, who came to this island on board the pirate ship *Virginus*, commanded by the chief, Rafael Quesada, whose prosecutor is fiscal magistrate, the lieutenant-colonel of infantry, Don Antonio Bertram Arnalte, certifies that on page 8 and following is found the examination of the prisoners of war Anselmo Villarreal and Gervasio Parra, Venezuelans, which literally states as follows: In the city of Santiago de Cuba, on the 26th day of the month of October, 1871, the fiscal magistrate, accompanied by a notary, resolved to go to the barrack of San Francisco, in this town, where the Venezuelan Anselmo Villarreal is confined, and commanded his appearance, and the prisoner appearing and the notary having stated to him the object of his being called, the said officer examined him, asking his name, age, country, religion, profession, and occupation. He stated that his name was Anselmo Villarreal; 43 years of age; native of the island of Marguerite, republic of Venezuela; Roman Catholic; by profession, a market-peddler in Puerto Cabello. Being asked if he knew the cause of his arrest, he said that he supposed the reason was his having taken part in the expedition of insurgents to this island. Being asked when he came to this island, and upon what conditions, he said that in May last, of this year, he was sick in the hospital of Caracas, and when he left there some friend of his intimated to him that he might enlist himself and form a part of the expedition that Manuel Quesada was planning to disembark in Cuba; that he did not then decide, but went to Puerto Cabello, and that about the 7th or 8th of June following, moved by the promises and brilliant prospects of booty from the enemy, and the promise of a dollar a day, which was offered, and hoping that in the expedition he would receive that money, he resolved to join it—more especially when he was told that he was coming to an island which belonged already to the insurgents, to organize an army to prevent the Spaniards from recovering it; that on the 13th of said month he embarked on the steamer *Virginus* with 39 countrymen of his, 6 or 7 Cubans, and 5 from Porto Rico, all of them commanded by Rafael Quesada and the Venezuelan General Manuel

Garrido, and disembarked at Bocca de Cabello, on the south coast of this island, in the vicinity of Sevilla, on the 21st day of the month, in which place a few negroes were waiting for them, who belonged to the party of Jesus Pères. Being asked what he had done and in what places he had found himself from his arrival until the moment he was captured by the Spanish troops, and being requested to state everything he knew about this matter, he answered and said that first was the landing of the men and material of war; that of the material of war there were 300 carbines, (Minie,) 300 guns, (Spencer,) about 200,000 cartridges of both kinds, 30 saddles, 600 cartridge-boxes, 8 or 10 barrels full of linen pantaloons, made of ordinary linen, and other articles of clothing of the same material, 2 large pieces of heavy cloth for cold weather, and 2 boxes of machetas; that they loaded all these on 40 mules, which were also brought in the expedition, and each individual carrying the arms of five persons; they made two trips to a place the name of which he does not know, but which is about two leagues and a half from the coast, where they passed the night, starting next morning, accompanied by Jesus Pères, toward La Magdalena, where they arrived two days afterward, where they divided the arms, and in consequence of being together, about 300 persons of both sexes, necessity obliged them to eat the animals they had brought: that from said place they all started toward Cambute, but the deponent fell sick on the journey and was left behind, arriving at said place four days afterward, where, through five of his countrymen who had also been left behind on account of sickness, he learned that Rafael Quesada and Garrido had continued their journey toward Puerto Principe, but that he heard nothing more about them afterward; and, finally, that after that time, in consequence of their being sick, they took the arms from them, and they followed the party among the women, until, not having strength enough to walk any longer, he was captured in the encampment of San Pedro, by the force of Brigadier Campos, who left him in said place with the view of inducing his companions to present themselves with him to the government, only one of whom, however, was induced to remain with him, and who was afterward taken by a party of Spanish troops that arrived from La Florida; to which place deponent went almost crawling, being too feeble to walk, and where he arrived three days after the others; that of the other four countrymen of his, two died, one hanged himself, and the other was in the party of Matias Vega, so that he could not see him; that the deponent felt bound to state that he did not think when he enlisted that he was to come and fight against the Spaniards, but only to earn better wages than in his own country in order to sustain his family, and induced by the tempting offers they made him; and that he has nothing more to say.

At this point the magistrate resolved to suspend the examination. Deponent, when this deposition was read to him, confirmed it in everything, signing it in the presence of the attorney. To which I hereby certify.

ANSELMO VILLARREAL-
BARNABÉ GARCÉS.

In my presence.

JONAS GELL.

In the city of Havana, on the 13th day of the month of November, 1871, after being summoned, appeared before said magistrate in the civil hospital of San Felipe of Santiago of this city, where the prisoners of war, Anselmo Villarreal and Gervasio Parra, were sick, the doctor on duty, who, being duly sworn by the magistrate, deposed that his name was Don Antonis Puig, and that the Venezuelans above mentioned were sick in one of the departments of the hospital, but were able to make a deposition, being in perfect possession of their senses.

All of which is declared by these officers, the said doctor and magistrate, who signed with me; which I hereby certify.

ANTONIS PUIG.
ANTONIS BERTRAN.
ANSELMO ROMAN PARDINA.

Immediately, having been previously summoned before the magistrate, and in the presence of the secretary, the Venezuelan prisoner of war, Anselmo Villarreal, accompanied by the consul of the United States, Mr. Enrique C. Hall, and the consul of Venezuela, Don Antonio Francisco Silva, appeared, and the magistrate having informed them all that the object of summoning them was that they might be present at the examination of the Venezuelan prisoners of war who were captured in the eastern department of this island, and having read to the prisoner the deposition made by him in Santiago de Cuba, said Anselmo was asked whether the contents of said deposition were what he had deposed before, and whether he had anything to add or suppress, and whether he promised to speak the truth in everything that might be asked of him. In answer, he said that the deposition read to him was the same that he had made in Cuba; that he had nothing to add or suppress; that he re-affirms every part of its contents; that the signature to it is recognized by him as his signature in his own handwriting; and that he promises to speak the truth in everything that may be asked of

him. Being asked on what day he left his country, he answered, that he left the republic of Venezuela on the 14th of June, in the present year, (1871;) and being asked in what ship he embarked, how the ship was called, in what place he was taken on board, at what place the ship was anchored, and what flag and colors she had, he answered that he embarked on the steamer *Virginus*, which was at Puerto Cabello, at the wharf or pier, with many others; that the flag which it hoisted was on the mainmast, and was the American flag. Being asked who chartered the ship, who was the person that dispatched the ship, and also who was the consignee in said port of Puerto Cabello, he said that the steamer belonged to the individuals Manuel and Raphael Quesada, natives of the island of Cuba; that they themselves were the persons who dispatched it, and that he did not know who was the consignee of said vessel in Puerto Cabello. Being requested to state how many passengers were on board the *Virginus*, how many disembarked with him, and how many were the crew of said steamer, he answered that the passengers were as many as disembarked with him, which number he has already stated, and that he did not know how many formed the crew of said vessel, the *Virginus*. Being asked whether it is true that they disembarked at Bocca de Cabello, on the south of the island, how long the steamer remained in port, where they landed and at what time it was done, he answered that it is true that they disembarked at said point, at 2 o'clock in the morning of the 21st of June of this year, (1871.) and that the steamer remained in that port until 8 o'clock in the morning, at which time it completed the landing of its cargo and immediately afterward left. Being asked what day he enlisted himself, who took his name, where was he taken, whether to a house or to the steamer, whether he was registered, and for how long, he answered that he had enlisted on the 8th of June, in the house of Dr. Bermudez, in which the brothers Quesada lived, who enlisted him and took his name; that they allowed him to live where he pleased, and that they did not take his *filiacion*. Being asked on what day he was made prisoner, he answered that he was captured about the 6th of October last, but he does not remember the exact date. Being asked if he knows Gervasio Parra and from where he sailed, he answered that he does know him, because he was a companion of his, and one of the expeditionists of Quesada. Being asked if he knew whether the government of his country residing in Puerto Cabello had knowledge of the bandit Quesada, called Manuel, recruiting men to form an expedition to go to the island of Cuba in the *Virginus*, as was done, he answered that he did not know whether the government at Puerto Cabello was acquainted with the facts of the expedition, but that he and all the others embarked themselves publicly at 6 o'clock in the afternoon, and that as Quesada lived, as he has already stated, in the house of Don Pedro Bermudez, who was an employé of the municipal government, he supposes that he (Bermudez) at least ought to have had notice of the said expedition. Being asked how many dollars he received at Puerto Cabello from Quesada, how many during the voyage, and how many afterward in the *Manigua*, and in what coin, he answered that in Puerto Cabello he received five dollars in a silver Prussian coin, during the voyage nothing, the same as his companions, and that in the *Manigua* he did not receive anything either. Being asked to state how many villages he had seen in this island during the time he had remained here, and what he had seen when among the insurgents, and if he had seen any stone houses, he answered that he had not seen any village at all, much less houses made of stone, while he had lived with the insurgents, and that he had only seen *bohios*, in which they lived. Being asked in how many combats he had found himself engaged, and whether he had captured any convoy to the Spaniards, he answered that he had not found himself in any combat, and that he had not captured any convoy to the Spaniards. Being asked who commanded him in the insurrection and what rations they gave him, he answered that he was commanded by the chief, Jesus Perez, for some days, and afterward by the so-called Lieutenant-Colonel Juan Cinta and afterward by the Commander Matias Vig; that they did not give him anything for rations, and that they sustained themselves with mangoes, guayabas, aguacate, and other fruits. Being asked whether he knows that these chiefs received provisions from Cuba, from Cobre, or from any other town inhabited by the Spaniards, or any correspondence from either of said places, or any other where the Spanish authorities reside, he answered that he did not know anything about that of which he was asked, because he had not seen anything of the kind. Being asked whether it is true that in the camp of Magdalena they ate forty mules, how they ate the flesh, whether they had salt and water, whether the Venezuelans complained, and whether this kind of flesh is eaten in his country, he answered that it was true that they had eaten the forty mules; that they were eaten by the Cubans of Jesus Perez, the flesh being roasted; that the Venezuelans did not eat it in his presence, as they still had some crackers brought from the ship; that in his country it is not customary to eat such flesh, and that they had water. Being asked if he has a list of the persons who came with him, he answered that he has no list of those persons, nor does he know their names. Being asked how they effected a landing; whether the ship came up close to the land, or whether they made the landing in boats; whether they saw any steamer of any kind when they approached the island, and whether he ever knew at what distance the Spanish troops were from that place, he answered that the landing was made

by the boats; that at sunset they saw a steamer; that he does not know to what nation she belonged, but that the *Virginius* directed her bow toward Jamaica in order to put herself out of the reach of that ship, and that the Spaniards were about three leagues from that place. Being asked if he knows where they bought the arms, ammunitions, saddles, and other articles that were disembarked there, he answered that he does not know. Being asked what he lived on during his four days' journey from Magdalena to Canbute, he answered that in those four days he ate only one mango; that as they had left him, thinking he was dead, no one took any care of him. Being asked whether the ship had changed her flag, inasmuch as he had stated that she sailed with the American flag, he answered that no change was made; that the flag was always hoisted on the mainmast and that the landing was made with the same on the poop. Being asked whether he has anything more to say, he answered that when he was captured in the camp of San Pedro he was made prisoner by a soldier whose name he does not know; that he thinks he belonged to the regiment de la Corona; that this soldier presented him to the brigadier campos, and that that officer directed that his sores (ulcers) should be attended to, and left him provisions, telling him to see his companions and induce them also to present themselves, but that this he was unable to do, because he saw only Gervasio Parra, who afterward did present himself with deponent; that Parra brought provisions to the deponent while he staid in that place, until seeing that no more Venezuelans presented themselves, deponent determined to leave there at once and go to where the Spaniards were; that he has nothing further to say beyond what he has stated, and that all that he has stated is true and in accordance with his promise to speak truly in respect to everything about which he should be interrogated.

At this point the magistrate determined to suspend this examination, to continue it it should be necessary hereafter, signing with the consuls and fiscal and secretary: which I certify.

ANSELMO VILLARREAL.

The Consul of the United States,

HENRY C. HALL.

The Consul of Venezuela,

FRANCISCO ANTONIO SILVA.

ANTONIO BERTRAN,

ANTONIO RAMON PARDINA.

Without delay the Venezuelan prisoner of war, Gervasio Parra y Franco, a native of Puerto Cabello in the republic of Venezuela, appeared before said consuls of the United States and of Venezuela, the fiscal and the secretary, and said fiscal having informed him that he was required to testify, and he having promised to speak the truth of everything about which he should be asked, he was asked to state his name, his nationality, his status, and the place from which he came; to which he answered that his name is as it has been already stated, that he is a native of Venezuela, a single man, age thirty years, by profession hotel-keeper, and that he came from the expedition of the so-called General Quesada. Being asked to state the day on which he embarked, at what place, at what time, and in what ship, he stated that he embarked at Puerto Cabello on the 15th day of June of this year (1871) on the ship *Virginius*; that the ship was near the wharf, and that they embarked upon her from the wharf at 6 o'clock in the morning. Being asked who enlisted him, and at what place they were enlisted, and for what time, he answered that Manuel Quesada enlisted him at his house, that is to say where he lived, in Mangle street; that the number of the house he does not remember, but that it belongs to Lerunil Larrache, who is in the real-estate business, and that he was not enlisted for any particular period. Being asked what flag the ship had hoisted when he came on board and when she started on the voyage, whether it was the same flag that she had when they disembarked, he answered that the flag the ship had hoisted when he went on board was the American flag, and that it was the same that she carried during the whole voyage, and the same under which the landing was effected. Being asked in what manner the landing was effected, at what time and what place the ship was brought near the land, and whether the landing was made directly from the ship or by boats, he answered that it was brought near the coast at the place called Bocca de Cabello, and that afterward, by means of boats, the men, mules, arms, and ammunition were disembarked at about 2 o'clock in the morning of the 21st of June, in the present year, (1871.) Being asked whether he knows Anselmo Villarreal, he answered that he does know that person, because he was a companion of his in the expedition and a countryman of his besides. Being asked how he came to present himself to the Spaniards, he said that, finding himself sick in the encampment of San Pedro, with some others of the insurgents, the so-called Lieutenant Posada decided that every body should encamp himself as he best could; and, his companion Anselmo being left in said camp, deponent returned next day to see him, when Anselmo spoke to deponent, and told him that the Spaniards had been there and had attended to his sores and given him food and wine, and treated him kindly, and told him that he ought to present himself, which he did to the first Spanish troops that

came near three or four days afterward; that Anselmo remained where he was, and that two days afterward deponent was sent by the Spanish commander in La Florida to take some food to Anselmo, which he did, returning next day from the camp La Florida; but that he did not dare to do it oftener, through fear of the *mambises*, that is to say, the insurgents. Being asked what induced him to come to this island, he said that, not having work in his own country, and the so-called General Quesada having offered him a dollar a day if he would come to serve in this island, which, he said was all in favor of the insurgents, and having promised that his wages here would be doubled, he came. Being asked whether they had fulfilled their promises and what rations he had received in the *manaigua* of Cuba, he said that in the *manaigua* he had not received any rations at all and no clothing; and that, far from fulfilling what they had promised, they took him from his home in the night, tied, and brought him to the steamer, because he had told Quesada that it would be no longer convenient for him, deponent, to come to this island with him; that those who took him tied to the *Virginus* were four officers of the same expedition, and that they knocked at his door at sunset, and ordered him in the name of the authorities to open the door. Being asked whether he has previously made a deposition, and if so when and at what place and before whom, he answered that he did not know whether the questions that were put to him in Cuba and afterward in Mansanillo could be considered as depositions or only as mere notes or memorandums, but that he has not signed anything; that he has nothing more to say, and that everything he has said is true.

At this point the magistrate determined to suspend this examination, to be continued if it is ever necessary.

Signed with the consuls, the fiscal, and the secretary, which I certify.

GERVASIO PARRA.

The Consul of the United States,

HENRY C. HALL.

The Consul of Venezuela,

FRANCISCO ANTONIO SILVA.

ANTONIO BERTRAN.

ANTONIO RAMON PARDINA.

In order that it may be known when required, I write the present certificate by order of Don Antonio Bertran y Arnalte, magistrate of the fiscal proceedings against the Venezuelans. Anselmo Villarreal and Gervasio Parra sign it. The fiscal signing it with me, the secretary, in the city of Havana, the 17th of November, 1871.

FRANCISCO PARDINAS.

All of which I approve.

ANTONIO BERTRAN.

I, Don Carlos Rodríguez de Rivera, colonel, provisional chief of staff of the army, and captain-general, certify that the proceeding, signatures, and signs of the Brev. Lient. Col. Commander Fiscal Don Antonio Bertran y Arnalte, and the brevet commander captain of infantry, Secretary Don Manuel Pardina y Murr, are of the handwriting of the same, and the same that they employ in their official writings.

Havana, November 21, 1871.

CARLOS RODRIGUEZ DE RIVERA.

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,

At Havana, Island of Cuba.

I, the undersigned, vice-consul general of the United States of America at Havana, island of Cuba, do hereby certify that the foregoing is the true and genuine signature of Lient. Col. Don Carlos Rodríguez de Rivera, chief of staff *ad interim* of his excellency the captain-general and superior military governor of this island, and whose official acts merit full faith and credit.

Given under my hand and the seal of this consulate-general the 1st day of December, 1871.

HENRY C. HALL,

Acting Vice-Consul General.

No. 750.

Mr. Williams to Mr. Fish.

DEPARTMENT OF JUSTICE,

Washington, December 17, 1873. (Received December 17.)

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, submitting to me a large number of documents and

depositions, and asking for my opinion as to whether or not the *Virginus*, at the time of her capture by the Spanish man-of-war *Tornado*, was entitled to carry the flag of the United States, and whether or not she was carrying it improperly and without right at that time.

This question arises under the protocol of the 29th ultimo, between the Spanish minister and the Secretary of State, in which, among other things, it is agreed that on the 25th instant Spain shall salute the flag of the United States. But it is further provided that "if Spain should prove to the satisfaction of the Government of the United States that the *Virginus* was not entitled to carry the flag of the United States, and was carrying it, at the time of her capture, without right and improperly, the salute will be spontaneously dispensed with, as in such case not being necessarily requirable; but the United States will expect, in such a case, a disclaimer of the intent of indignity to its flag in the act which was committed."

Section 1 of the act of December 31, 1792, provides that ships or vessels registered pursuant to such act, "and no other, (except such as shall be duly qualified according to law for carrying on the coasting-trade and fisheries, or one of them,) shall be denominated and deemed ships or vessels of the United States, entitled to the benefits and privileges appertaining to such ships." Section 4 of the same act provides for an oath, by which, among other things, to obtain the registry of a vessel, the owner is required to swear "that there is no subject or citizen of any foreign prince or state, directly or indirectly, by way of trust, confidence, or otherwise, interested in such ship or vessel, or in the profits or issues thereof."

Obviously, therefore, no vessel in which a foreigner is directly or indirectly interested is entitled to a United States registry, and if one is obtained by a false oath as to that point, and the fact is that the vessel is owned, or partly owned, by foreigners, she cannot be deemed a vessel of the United States, or entitled to the benefits or privileges appertaining to such vessels.

The *Virginus* was registered in New York on the 26th of September, 1870, in the name of Patterson, who made oath as required by law, but the depositions submitted abundantly show that, in fact, Patterson was not the owner at that time, but that the vessel was the property of certain Cuban citizens in New York, who furnished the necessary funds for her purchase. J. E. Shepperd, who commanded said vessel when she left New York with a certificate of her register in the name of Patterson, testifies positively that he entered into an agreement to command said vessel at an interview between Quesada, Mora, Patterson, and others, at which it was distinctly understood that the *Virginus* belonged to Quesada, Mora, and other Cubans, and that said Mora exhibited to him receipts for the purchase-money and for the repairs and supplies upon said steamer, and explained to him how said funds were raised among the Cubans in New York. Adolpho De Varona, who was the secretary of the Cuban mission in New York at the time the *Virginus* was purchased, and afterward sailed in her as Quesada's chief of staff, testifies that he was acquainted with all the details of the transaction, and knows that the *Virginus* was purchased with the funds of the Cubans, and with the understanding and arrangement that Patterson should appear as the nominal owner, because foreigners could not obtain a United States register for the vessel. Francis Bowen, Charles Smith, Edward Greenwood, John McCann, Matthew Murphy, Ambrose Rawlings, Thomas Gallagher, John Furlong, Thomas Anderson, and George W. Miller, who were employed upon the *Virginus* in various capacities

after she was registered in the name of Patterson, testify clearly to the effect that they were informed and understood while they were upon the vessel that she belonged to Quesada and the Cubans represented by him, and that he navigated, controlled, and treated said vessel in all respects as though it was his property.

Nothing appears to weaken the force of this testimony, though the witnesses were generally subjected to cross-examination; but, on the contrary, all the circumstances of the case tend to its corroboration. With the oath for registry the statute requires a bond to be given, signed by the owner, captain, and one or more sureties; but there were no sureties upon the bond given by Patterson and Shepperd. Pains have been taken to ascertain if there was any insurance upon the vessel, but nothing of the kind has been found, and Quesada, Varona, and the other Cubans who took passage upon the *Virginus*, instead of going on board at the wharf in the usual way, went aboard off a tug after the vessel had left the harbor of New York. I cannot do otherwise than to hold upon this evidence that Patterson's oath was false, and that the register obtained in his name was a fraud upon the navigation laws of the United States.

Assuming the question to be what appears to conform to the intent of the protocol, whether or not the *Virginus*, at the time of her capture, had a right, as against the United States, to carry the American flag, I am of the opinion that she had no such right, because she had not been registered according to law; but I am also of the opinion that she was as much exempt from interference on the high seas by another power, on that ground, as though she had been lawfully registered. Spain, no doubt, has a right to capture a vessel, with an American register, and carrying the American flag, found in her own waters assisting, or endeavoring to assist, the insurrection in Cuba, but she has no right to capture such a vessel on the high seas upon an apprehension that, in violation of the neutrality or navigation laws of the United States, she was on her way to assist said rebellion. Spain may defend her territory and people from the hostile attacks of what is, or appears to be, an American vessel; but she has no jurisdiction whatever over the question as to whether or not such vessel is on the high seas in violation of any law of the United States. Spain cannot rightfully raise that question as to the *Virginus*, but the United States may, and, as I understand the protocol, they have agreed to do it, and, governed by that agreement and without admitting that Spain would otherwise have any interest in the question, I decide that the *Virginus*, at the time of her capture, was without right, and improperly, carrying the American flag.

Very respectfully,

GEO. H. WILLIAMS.

No. 751.

Mr. Fish to Mr. Robeson.

DEPARTMENT OF STATE,
Washington, December 17, 1873.

SIR: Referring to the protocol signed on the 29th day of November, and to the agreement signed on the 8th day of December, instant, between the Spanish minister and myself, of which copies were furnished

to you with my letter of 8th instant, I have the honor to call your attention to the provision in these two papers relative to a salute to the flag of the United States, to be made by Spain, in the harbor of Santiago de Cuba, on the 25th day of December instant, and to the agreement in the protocol that "if, before that date, Spain should prove to the satisfaction of the Government of the United States that the *Virginus* was not entitled to carry the flag of the United States, and was carrying it at the time of her capture without right, and improperly, the salute will be spontaneously dispensed with, as in such case not being necessarily requirable."

The Spanish minister, in behalf of his government, has submitted certain documents, including depositions taken before a United States commissioner, in the presence of the attorney of the United States for the southern district of New York, by whom the parties making the depositions were cross-examined.

These depositions, together with copies of the register, and other papers of the *Virginus*, were, by direction of the President, submitted to the Attorney-General, requesting his opinion upon the force of the evidence, whether it does substantiate to the reasonable satisfaction of this Government that the *Virginus* was not entitled to carry the flag of the United States, and was carrying it, at the time of her capture, without right, and improperly.

The Attorney-General holds, upon the evidence presented, that the register of the *Virginus* was a fraud upon the navigation laws of the United States, and is of the opinion that she had no right to carry the flag of the United States, and he "decides that the *Virginus*, at the time of her capture, was without right, and improperly, carrying the American flag."

By direction of the President, I have the honor to inclose herewith a copy of this opinion and decision of the Attorney-General.

The President directs me further to say that the conditions having thus been reached, on which, according to the protocol of the 29th of November last, the salute to the flag of the United States is to be spontaneously dispensed with, he desires that you will give the necessary orders and instruct the proper officers to notify the authorities of Santiago de Cuba of that fact, in time to carry out the intent and spirit of the agreement between the two governments.

I have, &c.,

HAMILTON FISH.

[For inclosure see page 1103.]

No. 752.

Mr. Fish to Mr. Williams.

DEPARTMENT OF STATE,
Washington, December 22, 1873.

SIR: Referring to my conversation with you on the subject of carrying out the agreement of the United States with Spain, respecting proceedings against the *Virginus* and against the persons who may appear to have been guilty of illegal actions in connection therewith, I have now

the honor to inclose copies of the protocol of the 29th ultimo, between Admiral Polo and myself, and of the agreement of the 8th of December, and to request that the steps necessary to carry out the same may be taken by the Department of Justice.

I have, &c.,

HAMILTON FISH.

No. 753.

Mr. Williams to Mr. Fish.

DEPARTMENT OF JUSTICE,
Washington, December 23, 1873. (Received December 27.)

SIR: I have the honor to acknowledge the receipt of your letter of the 22d instant, relative to carrying out the agreement of the United States with Spain respecting proceedings against the *Virginus*, and inclosing copies of the protocol of the 29th ultimo, between the Spanish minister and yourself, and of the agreement of the 8th instant.

In reply, I have to inform you that I have transmitted said papers, with a copy of your letter, to the United States attorney at New York, with instructions to have all the necessary papers prepared to libel the *Virginus*, upon her arrival there, for violation of the laws of the United States, and to take such action, touching the persons connected with the enterprise, as may seem proper.

Very respectfully,

GEO. H. WILLIAMS.

SWEDEN AND NORWAY.

No. 754.

Mr. Stenersen to Mr. Fish.

[Translation.]

LEGATION OF SWEDEN AND NORWAY IN THE UNITED STATES,
Washington, March 25, 1874. (Received March 26.)

MR. SECRETARY OF STATE: Under date of October 2, 1872, I had the honor to address you a note, the object of which was to ask, in favor of the line of steamers plying between Norway and the United States, the same exemption from payment in this country of tonnage, anchorage, beaconage, and light-house dues that has been granted to the Belgian steamers in virtue of the treaty between the United States and Belgium of July 17, 1858, and to obtain the restitution of the duties which have already been paid.

In reply to that note you were pleased, Mr. Secretary of State, to send me, under date of October 17, 1872, a copy of a letter from the Secretary of the Treasury, of the 10th of the same month, wherein the