

A SPECK OF WAR.

Demand of the Spanish Minister for the Release of the Gunboats.

REFUSAL OF THE GOVERNMENT

Proposed Seizure of the Vessels To-Day by Order of the United States District Court.

Quasi-Recognition of the Cubans as Belligerents.

The people of this country will be startled this morning to ascertain through the columns of the **HERALD** that the relations of the United States with Spain are about to reach a crisis owing to the continuance of the revolution in Cuba. Though as yet there need be no fear of a diplomatic rupture, at least not of such a nature as usually succeeds the occurrence of a *casse belli*, still the facts which have transpired since Saturday, and which are foreshadowed for to-day, are a full warrant for saying that the relations of our government with that of Spain have assumed such a delicate character that a decision one way or the other must now imperatively be reached. The suspense is about to come to an end and the oft repeated question, "What will the government do with regard to Cuba?" is expected, will receive a decided answer to-day. What that answer is to be the following information, which can be vouched for as perfectly reliable, more so, in fact, than many similar newspaper reports usually are, will disclose.

The Spanish Minister at Washington received, in the course of last week, positive instructions from his government to make a formal demand in decided terms upon the Secretary of State, Mr. Fish, for the immediate release and delivery to him, on behalf of Spain, of the thirty gunboats which have been built partly in this city and partly at Mystic, Conn., and all of which are now lying in the East River, in this harbor, opposite the foot of Thirteenth street, receiving their fittings and machinery. The Spanish representative at once proceeded to comply with his instructions, and on Friday last, at an interview which he sought with Secretary Fish, he presented to that gentleman a document containing the demand he was instructed to make.

This, it should be said, is no mere idle rumor, and although the document is religiously watched over in the Department of State, or rather in the President's private office, and its precise language cannot be given, yet so much is certain, that the demand was so formal, couched in such terms, that but the alternative was left our government either at once to accede to it and surrender the gunboats to the representative of Spain, or apply to the proper judicial tribunals of the country to have the character of these vessels determined by legal proceedings and under the law of the land. To surrender the gunboats without a judicial inquiry, it was felt by all the members of the administration, and by none more so than by President Grant, was utterly out of the question. The general sentiment of the whole country is in sympathy and accord with the revolutionary movements in Cuba, tending to sever the connection of the island with Spain as a dependency and to erect it into an independent republic, gravitating with undoubted certainty towards the United States. Hence public opinion would have revolted against such a submission to the demands of Spain as the surrender of the gunboats without a legal investigation in a court of competent jurisdiction. That alternative was, therefore, not only inexpedient and impracticable, but wholly impossible, in view of the present state of the public mind on the Cuban question.

The other alternative was a judicial investigation. It will be recollected that towards the close of last summer the Peruvian representative at Washington called the attention of the government officially to the fact of the building of these gunboats for the Spanish government; that there was a "formal" state of war existing between Peru and Spain, and that actual hostilities between the two countries might at any moment be resumed, and that there was probable cause to believe that these gunboats building in the United States, specially designed and adapted for coast service, might be used against the republic of Peru, a State with which the United States were at peace. Upon this statement, so formally and officially made with a view of calling upon our government to interfere in the matter and to execute the neutrality laws, the President ordered the United States Marshal of this district to seize the boats and prevent their departure until further orders. This command was faithfully executed and the boats seized, as was fully detailed in the columns of the **HERALD** at the time. But, while these gunboats were thus taken under the charge of federal officers no opposition was made to their being completed and fitted for sea, and work upon them has been uninterruptedly continued since, until now several of them are ready to sail and all the rest are preparing soon to follow.

The seizure of these boats, at the time it was made last summer, was, it may be said, extra-judicial and in direct obedience to the President's orders. No warrant of seizure was issued by any judge or commissioner of the federal courts; no case was made for a judicial inquiry and none was had. The Marshal kept strictly within his instructions from Washington, kept a close eye upon the vessels to prevent any of them from leaving port without permission of the government, but in all other respects he kept aloof from interference with the builders and contractors.

Now, the formal demand having been made by Spain for their immediate release and delivery, the matter has assumed quite a different, more important, more serious aspect. It is believed, for such has long ago been reported as the intention of the Spanish government, that the latter has given the most solemn assurances that the vessels will not be used against Peru when leaving the United States. If that be the case, then the government cannot any longer hold them back under the extra-judicial proceeding and without any decision or order of a court of law. This complication of the case called for the most serious consideration on the part of the President and the members of the administration. And here come in the facts, the consequences of which will be developed in the course of to-day.

A special despatch from Washington to the **HERALD**, published on Sunday last, informed the public that Judge Edwards Pierpont suddenly arrived at the capital on Saturday morning and as suddenly departed again for New York in the evening; that during the present week some very important developments might be expected; that the administration was resolved to act at last in regard to Cuba, and that Judge Pierpont did not deny that Cuban affairs had something to do with his visit to Washington.

The statements in this despatch, though more or less apocryphally given, were based on well-grounded facts. Soon after the Spanish Minister had officially made his formal demand for the delivery of the gunboats it was communicated to the President. A short consultation was had between him and several of the Secretaries, and Judge Pierpont was at once telegraphed for. The Judge received the call late in the afternoon on Friday last, and without any unnecessary delay he hurried off in the night train to Washington, where he drove straight to the White House and remained in conference with the President, Secretary Fish and one or two other Cabinet officers. What transpired at this conference only those who took part in it know, and they are not the persons to divulge it. But so much may be said, that none now doubt that at this conference matters were discussed fraught with the highest importance for the immediate future.

Without direct knowledge of the character of the conversation which passed, or the arguments used or the facts stated at this conference, which, after all, were only secondary matters, the conclusions reached by it may be gathered from the fact that the government is determined not to comply with the demand of Spain for the release and delivery of the

Spanish gunboats in this harbor, but to submit the case to the United States District Court, sitting as a court of admiralty and maritime jurisdiction, present all the proofs in the possession of the government, and have the international character of the vessels in question and their status under the neutrality laws of Congress fully and authoritatively determined. For this purpose Judge Pierpont has been instructed, in his official capacity as United States District Attorney, to institute proceedings at once in admiralty against the thirty Spanish gunboats, and to obtain their forfeiture to the United States for a breach of the neutrality laws.

These instructions reached the District Attorney yesterday morning by telegraph from Washington, and all the afternoon and evening Judge Pierpont and some of his assistants and clerks were busily employed in the preparation of the necessary complaint, called in the technical phraseology of the law "libel," against these boats. These libels or complaints will be presented to the United States District Court, sitting in admiralty, this morning. Writs of seizure and notices to the interpleaders, if there be any, will be issued, and in the course of the day the United States Marshal will take legal possession of the Spanish gunboats, subject to the final judgment of the Court.

The most important parts of this contemplated proceeding are the grounds on which the government rests its claim to the forfeiture of the vessels. The libels will be based upon the third section of the act of Congress of April 23, 1818, commonly known as the Neutrality act, which reads as follows:

That if any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of any foreign prince or State, or of any colony, district or people, to cruise or commit hostilities against the subjects, citizens or property of any foreign prince or State, or of any colony, district or people, with whom the United States are at peace, or shall issue or deliver a commission within the territory or jurisdiction of the United States for any ship or vessel, to the intent that she may be employed as aforesaid, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than \$10,000, and imprisoned not more than three years; and every such ship or vessel, with her tackle, apparel and furniture, together with all materials, arms, ammunition and stores, which may have been procured for the building and equipment thereof, shall be forfeited; one half to the use of the informer and the other half to the use of the United States.

On reading this section of the law it will have been noticed that it prohibits and punishes the fitting out of vessels by a "foreign prince or State, colony, district or people," to cruise or commit hostilities against the subjects, citizens or property of a "colony, district or people" with whom the United States are at peace. The addition of the words "colony, district or people," of such high significance at the present moment, was made because, the decisions of the courts, under the previous neutrality laws, which had not these words—especially in the leading case of *Gelsten vs. Hoyt*—gave rise to many inconveniences arising out of the long protracted revolutionary wars of the Spanish colonies in America against Spain. It is now determined, and Judge Pierpont is preparing, to take advantage of these words of the law, and hence the "libel" by the government against the thirty gunboats will allege two grounds for their seizure and forfeiture—

First—That they are intended to be used against a foreign State, with whom the United States are at peace, to wit—the republic of Peru; and

Second—That they are intended to cruise and commit hostilities against the citizens and property of a colony or people with whom the United States are at peace, to wit, the colony or people of the island of Cuba.

In the latter clause lies the great importance of the step resolved upon for to-day. It draws a clear distinction between the "foreign State," Spain, which fitted out the vessels, and its "colony," the people of Cuba; it segregates, as it were, Cuba, the colony and its people, from the State of which it is a colony, said, in effect, places both upon an equal footing as regards the rights of belligerents in a neutral country. Hence, though not in express terms, it is in ultimate result, and may be called a quasi recognition of the Cubans as belligerents; for by this act the government of the United States declares unreservedly, that this country being at peace with "the people of Cuba," they have certain rights in our ports which this government, under the law, is bound to protect, whether they are sought to be infringed by Spain or by any other "foreign" prince or State. It is for these reasons that the conclusions arrived at by President Grant and the administration and the action to be taken to-day assume unusual proportions in an international aspect; for Spain will undoubtedly consider it an "unfriendly act" on the part of this government thus to separate the people of a colony from the sovereign, and to declare that, being at peace with that "people," they should not be molested or subdued by means of vessels of war fitted out by their own sovereign in American ports.

The Spanish never dreamed that our government would pursue such a course. They were sure that a mere demand, made in a formal way, would at once lead to the delivery to them of their vessels. They had made all preparations to take them out of port in the course of the present week. The armament for the thirty boats and arms and ammunition had been shipped from here some time ago, and is already in Havana awaiting the arrival of the gunboats to be transferred on board of them. On Saturday last a Spanish war steamer, the *Pizarro*, carrying six guns, arrived here and brought a full complement of Spanish sailors and marines, with the necessary officers, to man the boats. These forces of Spain, it was reported at the District Attorney's office, were landed yesterday afternoon and are now in this city, preparatory to be ordered on board the vessels to take them to Cuba. The fact that these forces have arrived here just about the time the Spanish Minister at Washington made his demand shows it to have been a preconcerted movement, and also that the Spanish authorities feared no refusal to their demand, otherwise they would have twice bethought themselves before they undertook to make the city of New York a Spanish naval station from whence to operate and carry on hostilities against the people of Cuba, with whom the United States are at peace.

The proceedings to be instituted to-day will be in admiralty only, known in law as "proceedings in rem," or against the things seized—that is, the vessels—and the judgment, if it be favorable to the views taken by the government, will be a decree of forfeiture of all the thirty gunboats to the United States for a breach of the neutrality laws. At present it is believed not to be the intention of the federal authorities to prosecute criminally any of the persons concerned in the building or fitting out of these vessels; but what subsequent developments may bring forth cannot now be foretold.

District Attorney Pierpont's Recent Visit to Washington—Confirmation of the Report of the Seizure of the Spanish Gunboats in New York—How Spain May Look Upon It—The Object of Increasing Our Naval Forces in the West Indian Waters.

WASHINGTON, Nov. 22, 1899.

Part of the business of District Attorney Pierpont in this city last week was to consult with the President and members of the Cabinet about the Spanish gunboats being built at New York and in Connecticut. It had been ascertained that these boats were about completed, and that an effort would soon be made to get them to sea. The matter, it is understood, was the subject of consideration in the Cabinet last Friday, when it was decided that the boats should not be allowed to leave. Judge Pierpont was fully informed as to the wishes of the government and ordered to take the proper steps to prevent their departure. A libel will be filed against the boats at once, and they will probably be seized by the United States Marshal this week. Besides the old charges preferred against the gunboats by the Peruvian Minister, it is said some new ones have been added. Altogether the government, it appears, finds sufficient grounds for seizing the boats.

In some quarters it is feared this step may lead to trouble with Spain. At any rate it is well known that the Spanish government regarded the detention of the boats in the first instance as a stretch of authority hardly warranted by either our neutrality laws or international law. It was construed as a decided evidence of sympathy with Cuba, and not as a concession to the belligerent rights of Peru. It

was argued by the Spanish government that the gunboats were not intended for Peru, but for Cuba. But to this the Peruvian Minister replied that the Spaniards propose to relieve the fleet now assembled in Cuban waters from duty there, and, replacing it with the gunboats, send it down to Peru. This would be worse for the Peruvians than to allow the gunboats to go direct to their shores, because the fleet of Cuba is capable of more damage than the gunboats.

There is reason to believe that the course now to be pursued by our government has been determined upon for some time back, and should it lead to any difficulty with Spain everything will be in readiness to meet it. It is currently reported in quarters usually well informed that the assembling of so many of our first class naval vessels in West India waters was with a view to any emergency that might arise out of this seizure of the gunboats. It remains to be seen what course the Spanish government will take; but whatever it may do, there is good authority for stating that the gunboats will be firmly held by our government.