

THE SPANISH GUNBOATS.

THE SEIZURE EFFECTED YESTERDAY.

THE LIBEL AND THE WRIT.

An Amended Libel in Prospect.

Interview Between the Spanish Minister and Secretary Fish.

The proposed seizure of the thirty gunboats built under contract by Mr. Cornelius H. Delamater for the government of Spain, and now lying in the North river, partly near the foot of Thirtieth and partly near Seventeenth street, was accomplished yesterday. The public will recollect that on Tuesday last the *HERALD* gave a full account of the proposed measure resolved upon by the government at Washington in consequence of the formal demand made by the Spanish Minister for the release of the boats. It was at first contemplated to perfect the seizure in the course of Tuesday, and the libels were prepared during the day and night of Monday. On Tuesday morning, however, it was found that the clerks in the United States District Attorney's office had been unable to complete the necessary copies. There are thirty boats, numbered from one to thirty, and each being libelled separately, two copies were required for each. Judge Pierpont thereupon concluded to have the libels, as well as the writ of seizure, printed. The following is a copy of the libel—

DISTRICT COURT OF THE UNITED STATES, FOR THE SOUTHERN DISTRICT OF NEW YORK, of November Term, in the year of our Lord 1893.

To the Honorable SAMUEL BLANCHARD, Judge of the said District Court of the Southern District of America, for the Southern District of New York—

The libel of information of Edwards Pierpont, Attorney of the said United States, and Clerk of the said District Court of the Southern District of New York, who prosecutes for the said United States in this behalf, and being present here in court in his own proper person, in the name and on behalf of the said United States, and a certain vessel known as "Gunboat number (one, two, three, four, etc., as the case may be), now lying at the foot of Thirtieth street, between Thirtieth and Thirtieth and a half streets, in the city of New York, together with all materials, arms, ammunition and stores which may have been procured for said libelling and which might be used in case of seizure and forfeiture, alleges as follows—

First—That the said gunboat or vessel is now lying in the port of New York on waters navigable from the said city of New York, within the limits of the United States, to wit, at the Southern District of New York aforesaid, being fitted out and armed by certain persons to the said aforesaid unknown, with the intent that the said gunboat or vessel should be employed in the service of the government of Spain to commit hostilities against the subjects, citizens and property of the said United States, with whom the United States are at peace.

Second—That the said gunboat or vessel has, on the 24th day of November 1893, within the limits of the United States, to wit, at the Southern District of New York aforesaid, been fitted out and armed by certain persons to the said aforesaid unknown, with the intent that the said gunboat or vessel should be employed in the service of the government of Spain to commit hostilities against the subjects, citizens and property of the said United States, with whom the United States are at peace.

Third—That the said gunboat or vessel has, on the 24th day of November 1893, within the limits of the United States, to wit, at the Southern District of New York aforesaid, been furnished, fitted out or armed by certain persons to the said aforesaid unknown, with the intent that the said gunboat or vessel should be employed in the service of a foreign people, to wit, the people of Spain, to commit hostilities against the subjects, citizens and property of the said United States, with whom the United States are at peace.

Fourth—That the said gunboat or vessel has, on the 24th day of November 1893, within the limits of the United States, to wit, at the Southern District of New York aforesaid, been furnished, fitted out or armed by certain persons to the said aforesaid unknown, with the intent that the said gunboat or vessel should be employed in the service of a foreign people, to wit, the people of Spain, to commit hostilities against the subjects, citizens and property of the said United States, with whom the United States are at peace.

Fifth—That all and singular the matters hereinbefore alleged by the said Edwards Pierpont, Attorney of the said United States, and Clerk of the said District Court of the Southern District of New York, are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore the said Attorney of the United States, on behalf of the said United States, and Clerk of the said District Court of the Southern District of New York, do hereby request and petition the said honorable court to issue its writ of seizure against the said gunboat and her tackle, apparel, furniture, arms and ammunition in this behalf to be made, and that certain persons to the said aforesaid unknown, who have been employed in the service of the said United States, to wit, the people of Spain, to commit hostilities against the subjects, citizens and property of the said United States, with whom the United States are at peace, and that the said gunboat, number 1, 2, or 3, etc., and her tackle, etc., and arms and ammunition be forfeited to the use of the said United States, according to the said acts of Congress, etc.

EDWARDS PIERPONT,
United States District Attorney.

Upon this libel of information the following writ of seizure was issued yesterday morning—

SOUTHERN DISTRICT OF NEW YORK, ss., to WIT—

That the said United States, by its Attorney General, to the MARSHAL of the Southern District of New York, GIBBS—

Knows that a libel of information has been filed in the District Court of the United States for the Southern District of New York on the 24th day of November, in the year of our Lord 1893, by Edwards Pierpont, Attorney of the said United States, and Clerk of the said District Court of the Southern District of New York, in which libel it is alleged that the said gunboat or vessel, known as "Gunboat number (one, two, three, four, etc., as the case may be), now lying at the foot of Thirtieth street, between Thirtieth and Thirtieth and a half streets, in the city of New York, together with all materials, arms, ammunition and stores (see section three, act of April 20, 1818, for the reasons and causes in the said libel of information mentioned, and that certain persons to the said aforesaid unknown, who have been employed in the service of the said United States, to wit, the people of Spain, to commit hostilities against the subjects, citizens and property of the said United States, with whom the United States are at peace, and that the said gunboat, number 1, 2, or 3, etc., and her tackle, etc., and arms and ammunition be forfeited to the use of the said United States, according to the said acts of Congress, etc.

You are hereby, therefore, commanded to attach the said gunboat or vessel, her tackle and apparel, arms, ammunition and stores, and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should be condemned pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the Southern District of New York, on the 14th day of December next, at eleven o'clock in the forenoon of the same day, if the same shall be for adjudication, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the same. SAMUEL B. HERR, Judge of the said court, at the city of New York, in the Southern District of New York, this 24th day of November, in the year of our Lord one thousand eight hundred and sixty-nine, and of our independence the ninety-third.

EDWARDS PIERPONT,
United States District Attorney.

GEORGE F. DINTZ, Clerk.

A CHANGE OF FRONT.

It will be noticed, on reading the foregoing documents, that a change of front on the part of the government is apparent in the proceeding. It had been determined to base the libel on the seizure of these vessels on two distinct grounds—first, that they were to be used against the republic of Peru, with which the United States are at peace, and second, that they were to be used by Spain to cruise and commit hostilities against the citizens and property of the "colony or people" of Cuba, with which the United States are at peace. This second ground of the libel was as elaborately "articulated" as the first, but on mature reflection, and perhaps taking into account the legal construction such a course might be subjected to, as suggested in the *HERALD* of Tuesday last, namely, that it would be tantamount to a *quasi* recognition of the revolutionists of Cuba as belligerents, Judge Pierpont concluded to drop this second count of the libel for the present and await further and positive instructions on the point from Washington. An amended libel, containing this allegation, has been prepared in the District Attorney's office, and will be filed in the District Court as soon as Judge Pierpont receives authority to do so from the attorney general. Up to last evening he had not yet returned from Washington on this question, although it is believed that he will file the amended

libel. As to other matters, as the drawback frauds and other matters.

Should it be determined to test the seizure on the grounds now preferred in the libel it is believed by some that the government may find some difficulty in proving their side of the case, or at least that Spain will have no difficulty in disproving it. The theory advanced is that these gunboats, being especially designed for service in shallow water, will re-leave the Spanish fleet now stationed around the island of Cuba, and this formidable force will then be in a condition to serve at other points, the unsettled and "dormant" state of war still existing between Spain and Peru pointing to the latter country as the probable objective point of the Spanish fleet, whenever released from duty in Cuba. Those who advance this idea pretend to believe that such a condition of things is not within the scope and spirit of the neutrality laws of Congress, and that the courts will in all probability rule to that effect; and they assert, also, that the count omitted from the libel at present, that these gunboats are destined for hostile use against the colony of Cuba, is the only one to rely on, and that on alone the government could hope to succeed in detaining this gunboat flotilla and preventing it to leave port. These statements are here repeated for whatever they may be worth.

WHAT MR. DELAMATER SAYS.

Mr. Cornelius H. Delamater, the contractor for the building of these vessels and owner of the Delamater Iron Works on West Thirtieth street and North river, has been preparing for the seizure of the boats ever since he was informed through the *HERALD* of the steps about to be taken by the government. During Tuesday and yesterday forenoon everything movable was taken out of the boats and stored in the warehouses of his works. Carpets, crockery, lamps, tools, sails, yaws, raw-masts, gun-carriages, in fact, everything portable was taken out, leaving nothing but the hull, masts, tackle and engines. One of the boats was yet in the dry dock to be copied. By order of Mr. Delamater, work on the vessel was stopped yesterday morning and she was towed to the pier where all the other boats now moored alongside of her companions.

In conversation with Mr. Delamater he did not seem to apprehend much delay, nor did he look upon the proposed seizure with anything like dread. He claimed that the boats were not Spanish vessels at all as yet; that they were his own individual property. He had built them under contract with the government of Spain, and had received a portion of the contract price, but the precise amount he would not state. He has not yet delivered a single vessel to the Spanish representatives or to any other person for them, and until he did so, he claimed the whole flotilla as his own and his exclusive property. He will at once take the proper steps to appear in the cause as claimant and "interpleader," and insist that the interdiction be raised, the libel dismissed, the writ of seizure vacated and the boats returned to his possession and custody.

THE SEIZURE.

Shortly before three o'clock yesterday afternoon the writs of seizure and the required number of copies were placed in the hands of United States Marshal Harlow, who, at half-past three P. M., accompanied by Deputy Marshal Wilson, proceeded to West Thirtieth street and North river, where they arrived at four o'clock. The Marshal immediately sought an interview with Mr. Delamater, whom he informed of the object of his visit, notifying him of the seizure and serving him with the prescribed notice on "monition" to appear in court and prefer his claim why the vessels should not be condemned as forfeited to the United States in conformity with the prayer of the libel of information. The Marshal then proceeded to the dock and took formal possession of the thirty gunboats by virtue of his writ.

At that time workmen were engaged on nearly all of them in various occupations, principally painting. By direction of the Marshal those workmen were ordered off the vessels, as no one except the officers of the government are allowed on board of them. Mr. Delamater inquired of Marshal Harlow whether he would not be allowed to go on with the work, since a complete stoppage entail heavy pecuniary loss on his sub-contractors. The Marshal replied that he himself had no objection to such a course, but he had no authority in the matter; he would consult the United States District Attorney, take his directions and inform Mr. Delamater of the result by noon to-day. Deputy Marshal Wilson was left in charge of the boats and Marshal Harlow left the scene of his interesting official labors.

Ever since the gunboats had been seized by an extra judicial order from the President last summer, the United States gunboat Maria was ordered by Admiral Godon, commanding the Brooklyn Navy Yard, to station there. She is still in a position, athwart the dock, foot of West Thirtieth street, in command of Ensign John Bleecker, with a crew, reinforced by some sailors from the Vermont, having up steam constantly and her gunboats. The Ensign commanding has orders not to let any of the boats leave their moorings without a special permit from the Admiral, and in case of disobedience to take all necessary measures to compel compliance with his orders, even to the extreme of sinking the disobedient vessel.

Marshal Harlow, on leaving the boats, proceeded to the Brooklyn Navy Yard with a view of prevailing upon Admiral Godon, to let the Maria remain in her present position, subject to the orders of the Marshal, as it would be less expensive to keep a strict watch and control over the seized vessels by means of the gunboat, than by placing a Deputy Marshal in charge of each of the thirty vessels. It is believed that the request will be granted.

CONDITION OF THE GUNBOATS.

Six or seven of them are in such a forward condition, that they could have been got ready for sea within twenty-four hours. All that they needed were the officers and crew and a sufficiency of coal. The former have arrived in the Spanish war steamer Pizarro, and are now in this city; the latter has been contracted for and is ready for delivery at Mr. Delamater's notice. The usual stores were all on board; but, as stated above, they have been removed previous to the seizure. Ten of the boats were expected to be ready to sail in about a week's time and the rest in from three to four weeks.

THE COUNSEL IN THE CASE.

The government will be represented in this important international litigation by the United States District Attorney, assisted by Mr. F. B. Phelps, his first assistant. Mr. Delamater has retained as his counsel, to urge his claims as interpleader, Messrs. Webster and Craig. Yesterday afternoon, about the time that the seizure was made by Marshal Harlow, Messrs. William M. Evans and E. W. Stoughton called upon District Attorney Pierpont, at his office in Chambers street, and it is reported they informed him of their retention on behalf of the government of Spain, and to make arrangements for a speedy trial of the issues of fact as well as of law which will be presented for the decision of the court.

A CALL ON ADMIRAL GODON.

Captain Evarista Casariga, of the Spanish war steamer Pizarro, in company with two or three Spanish gentlemen, visited Admiral Godon, at the Brooklyn Navy Yard, yesterday afternoon, and were hospitably received, and, after a brief interview at the Admiral's quarters, were shown over the yard. It was not ascertained whether this visit had any special connection with the affair of the Spanish gunboats.

Interview Between the Spanish Minister and Secretary Fish—Remarks and Speculations in Reference Thereto—The Purpose of the Government in Libelling the Gunboats—Protest of the Contractor Against Their Detention—No "Speak of War."

WASHINGTON, Nov. 24, 1893.

Some conflicting rumors are afloat here to-day in regard to the libelling of the Spanish gunboats, and it is difficult to get at the exact truth on the subject, owing to the strict secrecy observed by the only parties who can furnish reliable information.

Señor Roberts, the very shrewd, skillful and accomplished representative of Spain, called at the State Department this morning, had a long interview with Secretary Fish, and came away, as is reported, looking highly surprised and worried, as if something unpleasant had happened. From this circumstance, which may be exaggerated, the whole tribe of ingenuitously assembled here have concocted a variety of stories more or less calculated to excite the public mind. One, for instance, declares that

Señor Roberts asked an explanation of the last movement of our government in ordering the libelling of the gunboats and that Mr. Fish, with unusual bluntness, answered that the President had resolved to prevent the departure of the fleet for reasons that could not yet be furnished. To make this plausible the story teller related how the Spanish Minister demanded an explanation in a haughty and excited manner which stirred up the Knickerbocker spirit of our Secretary of State and caused him to answer in a style that he would not have used but for the provocation given by the representative of Spain. I have very excellent reasons for knowing that there is not one word of truth in this. Indeed, any one acquainted with Mr. Roberts, who is an extremely cautious, cool and wary diplomat, knows very well that he would not under any circumstances conduct himself in the manner represented. He is too much of a diplomat and a man of the world to lose his temper. Though a Spaniard, he does not display the national excitability credited to his people. But aside from this merely personal reason, I know that no such heated interview occurred.

Another story is that Señor Roberts to-day made a formal demand for the release of the gunboats in the shape of a courteous diplomatic note addressed to Mr. Fish. But I am also reliably informed that there is as little truth in this as in the former story. The fact is just as I telegraphed you last night, that Señor Roberts has never contemplated making any such protest at all, nor has he been urged by his government to do so. What he may do in the event of the condemnation and forfeiture of the vessels is quite another question. Then he may find it his duty to demand from our government either the surrender of the gunboats or reimbursement for the money already paid over to the contractors during the progress of construction, Señor Roberts may be instructed by his government that Spain will not accept our interpretation of the law; that it regards the idea of a "dormant state of war" with Peru as one not sanctioned by the law of nations, and that our government must accede to either one of the two demands, to wit—Surrender of the vessels or reimbursement for moneys expended in their construction. But even this probable action of Spain is very much doubted here in quarters where the question is the subject of mature deliberation. In such quarters it is considered that Spain would not attempt to take the ground that she had a right to interfere with our neutrality laws. That such a thing would be simply ridiculous in view of the fact that the question is one pertaining entirely to judicial tribunals and not to the Executive of either country. Then, as regards reimbursement, it is held that Spain could only look to the contractors for her loss, and not to the government; that our citizens could not plead ignorance of the law any more than Spain herself; that such citizens as might assume a conduct violative of our law must bear the consequences, and that Spain herself, being a party to the contract, must necessarily be without redress either in our courts or from our government. This, in brief, is the light in which the matter is regarded here.

Now, as to the interview between Roberts and Fish. There is no doubt such an interview occurred to-day, but what was said and done has not been transpired. I think it is safe to assert, however, that there was nothing that could be magnified even into a protest. Señor Roberts has had many interviews with Secretary Fish about this matter, but they have all been of a pacific nature. Before the night is over perhaps I may be able to give you some specific information about the interview, which creates such excitement.

A good deal of misapprehension evidently exists concerning the true meaning of this "libelling" procedure, and it is worth while to correct it, to some extent at least. You may be assured that the explanation contained in my despatch last evening is the true one, and that all the verbose statements that have appeared are mere exaggerations and mystifications. There is no war meant. The government merely takes this last step for the purpose of clearing away all doubts existing as to the true meaning of our neutrality laws. It does it now simply because it is the proper moment. The vessels were not completed before, and there existed no necessity until now to have them libelled. In fact, it is a mistake to assume that they were not ready heretofore. The contractors were merely notified that the vessels would not be allowed to depart from the country without permission from the proper authorities, and precautions were taken by the Navy Department to see that this notice should be obeyed. But none of the vessels attempted to leave, and it was only within a few days that Mr. Cornelius Delamater, finding the vessels so far advanced towards completion, had prepared by an attorney a sort of protest against preventing their departure. This protest, which is quite lengthy, was sent here to Secretary Fish, and was, in fact, the very thing that led to the order for libelling the vessels. The matter was laid before the Cabinet, was fully discussed, and the conclusion arrived at was that the government could not prevent the departure of the vessels without having them libelled according to law. Mr. Delamater's protest stated, among other things, that should they not be allowed to depart he would not receive from the Spanish government the amount said to be owing to him, which is \$300,000 in gold. A copy of the protest was sent this morning by Mr. Fish to Colonel Freyre, the Peruvian Minister. The following is Mr. Fish's letter—

WASHINGTON, D. C., Nov. 23, 1893.

SIR—Herewith I have the honor to enclose for your information the protest of Cornelius Delamater, of New York, against the further detention of the steam gunboats constructed by him for the government of Spain, and to state that in view of the importance which this matter has assumed it has been determined to let the decision rest with the courts of the United States having jurisdiction of the subject. I am, sir, with high consideration, your obedient servant,

HAMILTON FISH.

In this protest it will be noticed that the words "further detention" are used, as if the vessels had, in point of fact, heretofore been detained, which, strictly, is not the case, as explained above. The Peruvian Minister has had nothing whatever to do with this movement, except in so far as he was the original complainant; but it is expected he will be an active participant in the legal proceedings, as he will be called upon to furnish proof of the destination of the gunboats and the purpose for which they are constructed. It is further understood that Colonel Freyre, the Peruvian Minister, will have an interview with Mr. Fish to-morrow, when something interesting may transpire.