

64. PEDRO DUARTE; 65. JORGE CALVAR, and 66. RAMON ROMAGOSA, arrested at Manzanillo for alleged conspiracy in insurrection; expelled August 11, 1896.

67. DONALD B. DODGE, or F. M. BOYLE, arrested at Santiago de Cuba August 2, 1895; charge, rebellion (consul thinks his mind unbalanced); released August 31, 1895, and sailed for the United States; native of New York.

68. BERT S. SKILLER, arrested at La Caleta, in open boat, April 28, 1896; released at Baracoa September 3, 1896.

69. MANUAL COMAS, arrested October 25, 1895, and released.

70. ALFRED LABORDE, native; arrested on steamer *Competitor* April 25, 1896; charge, landing arms for insurgents; confined in Cabana fortress; condemned to death May 8; order suspended; new trial opened May 11, 1896.

71. WILLIAM GILDEA, naturalized; same as above.

72. ONA MELTON, native; same as above.

73. CHARLES BARNETT, native; supposed to be one of *Competitor* crew; captured on land; same as above.

74. WILLIAM LEAVITT, British subject; supposed to be one of *Competitor* crew; captured on land; same as above.

List of newspaper war correspondents who have been expelled from the island.

WILLIAM MANNIX, native of United States; expelled as a dangerous alien, etc., February 11, 1896.

SYLVESTER SCOVEL, World, native of United States; reported that he had arrived from insurgent lines, and it was intended to deport him in January; reported January 20 that he had returned to insurgent lines.

CHARLES MICHELSON and LORENZO BETANCOURT, correspondent and interpreter of New York Journal; arrested February 25; confined in Morro Castle; released February 27, 1896; charged with having communicated with insurgents by passing through Spanish lines at Mariano, etc.

ELBERT RAPPLEYE, Mail and Express; expelled March 26, 1896, for sending news to his paper which was false and disparaging to the authorities in the island.

JAMES CREELMAN, World, born in Canada; expelled May 5, 1896, for sending to paper false reports touching the insurrection.

F. W. LAWRENCE, Journal, born in the United States; expelled May 5, 1896; same cause as above.

WILLIAM G. GAY, World; native of New York; expelled June 27; went to New York.

THOMAS J. DAWLEY, war correspondent; native of New York. Arrested several times between March 24, 1896, and July 3 on suspicion; charges, "Taking views of forts and conspiring to blow up same with dynamite;" confined thirteen days in Morro; released.

ARREST, IMPRISONMENT, ETC., OF JULIO SANGUILY.¹

Message of the President.

To the Senate:

I transmit herewith, in response to a resolution of the Senate of the 6th ultimo, a report from the Secretary of State, accompanied by copies of correspondence concerning the arrest, imprisonment, trial, and condemnation to perpetual imprisonment in chains of Julio Sanguily, a citizen of the United States, by the authorities of Spain in Cuba.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 1, 1897.

¹ Reprinted from Senate Doc. No. 104, Fifty-fourth Congress, second session.

Report of the Secretary of State.

THE PRESIDENT:

The Secretary of State, to whom was referred the resolutions of the Senate of January 6, 1897, requesting the President to send to the Senate, "if in his opinion not incompatible with the public interest, all the correspondence and reports of the consul-general of the United States at Habana relating to the arrest, imprisonment, trial, and condemnation to perpetual imprisonment, in chains, of Julio Sanguily, a citizen of the United States, by the authorities of Spain in Cuba," has the honor to lay before the President copies of the correspondence called for.

It should be added that in view of all the circumstances of this case, and especially of the long imprisonment already suffered by the accused, representations have been made to the Spanish Government, which it is believed will not be without effect, that the case seems to be one in which executive clemency may be reasonably exercised.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,
Washington, January 30, 1897.

Mr. Williams to Mr. Uhl.

No. 2429.]

UNITED STATES CONSULATE-GENERAL,
Habana, February 27, 1895. (Received March 5.)

SIR: I have to inform you that last Sunday afternoon, the 24th instant, Mr. Manuel Sanguily, of this city, called on me at my residence to inform me, in the name of his brother, Mr. Julio Sanguily, that the latter had been arrested in this city on the morning of that day and lodged in the Cabana fortress, subject to the military jurisdiction, by order of His Excellency the Governor-General of this island, and to ask from me the intervention of this consulate-general in behalf of his brother, on the ground of the latter being an American citizen.

On reaching the office the next morning I found that Mr. Julio Sanguily is registered in this consulate-general as an American citizen on a certificate of naturalization issued to him on the 6th of August, 1878, by the superior court of New York, and passport 9310 of the Department of State, dated the 7th of same month and year, and also upon the personal document issued to him on the 22d of the same month and year by the government-general of this island.

In consequence, and after having ascertained on verbal information that Mr. Sanguily had been arrested upon suspicion of conspiring against the Government of Spain, and not having been captured with arms in hand, but arrested at his home, amid his family in this city, and urged by the entreaties sent me by his wife and others, who feared he might be immediately shot by order of the court-martial, I made a visit to the Governor-General to acquaint him with the facts concerning the American citizenship of the accused, and to inform him that I would at once prepare and address him a communication to ask that Sanguily be transferred from the military to the civil or ordinary jurisdiction for trial, with the right to appoint whatever advocates, solicitors, and notaries for his defense as he might choose, in accordance with the Collantes-Cushing agreement of the 12th of January, 1877. Accordingly, I addressed and delivered the next day to his excellency my communication of same date,

copy and translation of which are herewith accompanied for the information of the Department.

In connection with this subject, I have to say that the friends of Mr. Sanguily, seem to be under the impression that this consulate-general has to take exclusive charge of his case. I have answered that the functions of this office in the matter, until otherwise instructed by the Department of State, are limited to the claiming and to the seeing that Mr. Sanguily, since he was not captured with arms in hand, be tried by the civil or ordinary and not by the military jurisdiction, with the exercise of his right of naming his own advocates, solicitors, and notaries for his defense before the court, and for the securing to him of a fair trial, in accordance with the terms of the said Collantes-Cushing agreement, the legal expenses of his defense being for his own account. Awaiting the instructions of the Department, I am, etc.

RAMON O. WILLIAMS,
Consul-General.

[Inclosure in No. 2429.—Translation.]

Mr. Williams to the Governor-General.

UNITED STATES CONSULATE-GENERAL,
Habana, February 26, 1896.

EXCELLENCY: Complying with the general instructions of my Government, and with reference to the conversation I had the honor to hold with your excellency yesterday respecting the arrest of Mr. Julio Sanguily, a citizen of the United States, and held in Fortress Cabanas for trial by the military jurisdiction, as I understand, for supposed connection with an attempt to disturb the public peace of this island, I have to ask in the name of my Government that your excellency be pleased to order the strict observance of the agreement of the 12th of January, 1877, between the United States and Spain, in the trial of this American citizen, the first article of which agreement provides that:

"No citizen of the United States residing in Spain, her adjacent islands, or her ultramarine possessions, charged with acts of sedition, treason, or conspiracy against the institutions, the public security, the integrity of the territory or against the supreme government, or any other crime whatever shall be subject to trial by any exceptional tribunal, but exclusively by the ordinary jurisdiction except in the case of being captured with arms in hand."

Therefore, as this individual has not been captured with arms in hand in any attempt against the sovereignty of Spain in this island, but at his home amid his family circle in this city, I have, likewise, to ask that your excellency be pleased to inhibit the military jurisdiction from cognizance of this case, and to order at the same time that the trial of the accused be transferred to the ordinary jurisdiction, with his right to appoint such advocates, solicitors, and notaries as he may choose for his defense before the corresponding court, in accordance with the said agreement of the 12th of January, 1877, and with the provisions of article 7 of the treaty of the 27th of October, 1795, between Spain and the United States.

I have, etc.,

RAMON O. WILLIAMS, *Consul-General.*

[Subinclosure in No. 2429.]

Extract from the Register of Citizens of the United States kept at this Consulate-General.

August, 1878. Julio Sanguily, 32 years of age; native of the Island of Cuba; married; profession, commerce; transient, residence San Rafael Baths.

Naturalized as a citizen of the United States on the 6th of August, 1878, by the superior court of New York. Passport No. 9310 issued by the Department of State, at Washington, on the 7th of August, 1878. Government-general of the Island of Cuba issued him personal document ("cedula personal"), dated the 22d of August, 1878.

I certify that the preceding is a faithful extract from the register kept in this consulate-general.

(Signed)

RAMON O. WILLIAMS, *Consul-General.*

Mr. Williams to Mr. Uhl.

No. 2442.

UNITED STATES CONSULATE-GENERAL,
Habana, March 9, 1895. (Received March 14.)

SIR: With reference to my dispatch No. 2429, of the 27th ultimo, reporting the arrest and subjection to court-martial, instead of to an ordinary court for trial, of Mr. Julio Sanguily, I have the honor to inclose, for the information of the Department, the copy and translation of the communication dated the 1st instant, addressed to this office by the secretary of the government-general of the island, together with copies of my answer, dated the 4th and 7th instant, all in relation to this affair.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2442.—Translation.]

Mr. de Antonio to Mr. Williams.

GOVERNMENT GENERAL OF THE ISLAND OF CUBA,
OFFICE OF SECRETARY-GENERAL,
Habana, March 1, 1895.

SIR: His Excellency the Governor-General being informed of your communication of the 26th of February last, referring to the arrest of Mr. Julio Sanguily, has been pleased to order that you be advised, as I now have the honor of doing, that, as according to article 7 of the law relating to foreigners of the 4th of July, 1870, not contradicted nor vitiated by the agreement of the 12th of January, 1877, between Spain and the United States, nor by the treaty of the 27th of October, 1795, every foreigner resident in the Island of Cuba, to be considered as such, must be inscribed in the register of foreigners of the Government, besides being inscribed in that of the consulate of his nation, it becomes necessary in order to proceed with the remonstrance founded on the character of American citizen of Mr. Sanguily, that you accredit that the said individual has complied with the precept of the said article 7 of the law of the 4th of July, 1870, of having presented for that purpose the certificate of his inscription in the register of foreigners which, till the decree of the 21st of December, 1880, was kept by this Government General, and from that date and by order of the said decree by the civil governments of the provinces.

God guard you many years.

ESTANISLAO DE ANTONIO.

[Inclosure 2 in No. 2442.—Translation.]

Mr. Williams to Mr. de Antonio.

UNITED STATES CONSULATE-GENERAL,
Habana, March 4, 1895.

SIR: Replying to the communication that by order of his excellency the Governor-General you were pleased to address me on the 1st instant, received on the 2d, signifying the necessity on the part of this consulate-general to accredit the fact of Mr. Julio Sanguily having complied with the precept of article 7 of the law relative to foreigners, by presenting the certificate of his inscription in the register of foreigners, which up to the 21st of December, 1880, was kept in the government general, and from that date and by virtue of the same decree is now kept by the civil governments of the provinces, before my remonstrance in his case can be taken into consideration, I now have the honor to state that the extract taken from the register of this consulate-general and added at the foot of the communication that I had the honor to address his excellency on this subject shows the fact of the general government of this island having issued to Mr. Sanguily the usual personal pass (*cedula personal*), under number 1643, dated the 22d of August, 1878, the authenticity of which fact will doubtlessly be corroborated on the making of the proper comparison with the corresponding register in the office of your worthy charge; your question being duly answered as I believe with the foregoing.

God guard you many years.

RAMON O. WILLIAMS, *Consul-General.*

[Inclosure 3 in No. 2442.—Translation.]

*Mr. Williams to Mr. de Antonio.*UNITED STATES CONSULATE-GENERAL,
Habana, March 7, 1895.

SIR: In amplification of my communication of the 4th instant, replying to your attentive communication of the 1st instant, I have the honor to accompany a copy of the personal pass (*cedula personal*), such as are issued to transient foreigners, that the civil government was pleased to issue to Mr. Julio Sanguily, under date of the 30th of October, 1886; as, also, another under date of the 5th of November, 1886, in favor of his wife, Mrs. Matilda Echarte de Sanguily, the latter including their minor son Julio, accrediting thereon, as customary, the American citizenship of the said Sanguily, and of his wife and son, which documents will be preserved in this consulate-general at the disposal of the advocate that may be named by the accused for his defense before whatever competent court of the civil or ordinary jurisdiction he may be tried, in accordance with the agreement of the 12th of January, 1877, between the United States and Spain.

God guard you many years.

RAMON O. WILLIAMS, *Consul-General.*

[Translation.]

Number.

Personal pass, fiscal year 1886-87. Province of Habana. Transient foreigners, gratis.

Mr. Julio Sanguily, native of Cuba, American citizen, province of id., 41 years of age, married, profession merchant, residing in Lombillo, No. 4, and resides habitually in El Cerro.

Habana, October 30, 1886.

By the Governor:

[SEAL.]

E. GUILLERME.

Number.

Personal pass, fiscal year 1886-87. Province of Habana. Transient foreigners, gratis.

Mrs. Matilde Echarte de Sanguily, native of Cuba, American citizen, province of id., 27 years of age, married, profession, her house in which she resides, and resides there habitually, accompanied by her son Julio, a minor.

Habana, November 5, 1886.

By the Governor:

[SEAL.]

E. GUILLERME.

Mr. Uhl to Mr. Williams.

No. 1049.]

DEPARTMENT OF STATE,
Washington, March 11, 1895.

SIR: I am in receipt of your dispatches, Nos. 2429 to 2434, inclusive, relative to the recent political disturbances in the Island of Cuba and the arrest of Messrs. Julio Sanguily and José Maria Aguirre, American citizens, for alleged complicity therein. Your application to the Governor-General for the transfer of these cases from military to civil jurisdiction under the provisions of the protocol of January 12, 1877, was correct and proper, and is approved. Your understanding of the limits of your duty in respect to these arrests, as explained in your No. 2429, is correct.

I am, etc.,

EDWIN F. UHL.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, March 18, 1895. (Received March 19.)

My affirmation of the American citizenship of Julio Sanguily having been comprobated and authenticated by the civil government of the Province of Habana, the Governor-General has ordered his transfer from the military to the civil jurisdiction for trial in accordance with protocol twelve January, seventy-seven, as I asked on the 26th ultimo.

Mr. Williams to Mr. Uhl.

No. 2457.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 23, 1895.

SIR: With reference to previous correspondence on the subject, I have the honor to inclose copy of the official note of the secretary of the general government of the island, dated the 16th instant, received on the 18th, informing me that in accordance with my solicitation of the 26th ultimo his excellency the Governor-General has ordered the transfer of Mr. Julio Sanguily from the court-martial to which he had been committed to the civil or ordinary jurisdiction for trial, with the strict observance in his favor of all the guarantees of the protocol of the 12th of January, 1877.

In submitting this correspondence to the Department I beg to make the following observations in explanation of my reasons for calling so early and so promptly on the Governor-General, which action appears to have given rise to the belief on his part that I was acting indiscreetly, and, perhaps, at an inopportune moment:

On going to the Governor-General at the early hour of 8 o'clock in the morning of the 25th ultimo, I was solely animated by a sense of public duty: to inform him as soon as possible of the facts relating to the American citizenship of Sanguily, thinking he might not be acquainted with them, and to ask for his transfer from the court-martial to the civil jurisdiction for trial, in accordance with the terms of the agreement of the 12th of January, 1877, since I had been assured that he had not been arrested with arms in hand in any attempt against the public security, but when quietly at his home in this city.

I also conceived it to be a part of my duty on this occasion to do all in my power to prevent the issuance of any misunderstanding out of this affair between the Governments of the United States and Spain from hasty action, either from inadvertence or inobservance on the part of the court-martial of the terms of that agreement. I thought that I had good reasons for this promptness of action, because when I remonstrated in 1893 in the case of Howard, who had been subjected to court-martial for trial on account of an incident sprung from a sailor's spree, and asked for his transfer to the ordinary or civil jurisdiction, as the correspondence on file at the Department will show, the deputy prosecuting attorney, to whom my remonstrance had been referred for his opinion, denied the existence of that agreement, and assumed that I had committed a mistake; and he further assumed that the only agreement made between the United States and Spain during 1877 was the convention of the 5th of January of that year for the extradition of criminals fugitive from justice; and, besides, that my remonstrance against

the trial of Howard by court-martial was tantamount to the pretension, on the part of this consulate-general, that American citizens had greater rights within Spanish territory than the law allowed to Spanish subjects in identical cases, and closed his opinion by remanding Howard back to the court-martial. The same correspondence will show, also, that at this stage of the proceedings I called on His Majesty's prosecuting attorney (*fiscal de S. M.*), who I found was acquainted with the existence of the agreement; and ascertained from him that the error of his deputy had originated from the fact that the agreement had never been published by the Spanish Government. The latter then withdrew his opposition to my petition, and Howard was tried by the superior court, having had for his defense one of the best lawyers of the bar of Habana appointed by the same court, he not having had wherewith to pay the expenses of his defense. He was convicted, and is still serving out his sentence.

Soon afterwards Oglesby was arrested and the fact reported to the Department. The judge of the primary court committed the like error of turning him over to the military instead of to the ordinary jurisdiction for trial. But on my interference he was transferred to the civil court, tried, and was acquitted.

Then followed the case of Rosell, another American citizen, at Santiago de Cuba, who by like mistake was sent to the court-martial for trial. But on my representation to the then acting governor-general he was turned over to the civil court, tried, and acquitted.

Immediately following the arrest of Mayolin, also another American citizen, took place at Santa Clara. He was likewise subjected through error of the primary judge to court martial, and on presenting my petition to the Governor-General now in charge he asked me in rather a curt manner if it was the duty of this office to defend such men. I answered him very civilly that I had not come as the advocate of Mayolin, as that was a matter of his own appointment, under the agreement, his defense before the courts not being a consular function; and furthermore that I knew nothing of the charges against him, and that my petition was limited solely to the asking that he should be tried by an ordinary civil court instead of by a court-martial, in accordance with the agreement, since I was assured that he had not been captured with arms in hand in any attempt against the Government. The Governor-General then understood the object of my call, received my remonstrance, and soon after decreed the transfer of Mayolin to the civil court, by which he was in turn tried and acquitted, thus by his own decree justifying my action in the case.

Returning now to the case of Sanguily, the subject of my visit to the Governor-General on the morning of the 25th ultimo, I found that my conjecture proved correct, for he was surprised on learning the fact of the American citizenship of Sanguily having been recognized by the Governments of the United States and Spain. Neither did he understand or appreciate the motives of my visit to him.

On the morning of the 26th ultimo I called again on his excellency to present him my official communication of the same date. On this occasion, as on the previous one, he showed unmistakable signs of displeasure. But he received my communication, and his decree of the 16th instant, ordering the transfer of Sanguily from the court-martial to the civil court for trial, is a full justification of my action and conduct throughout this whole affair.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2457.—Translation.]

Mr. de Antonio to Mr. Williams.

GOVERNMENT-GENERAL OF THE ISLAND OF CUBA,
OFFICE OF THE SECRETARY-GENERAL,
Habana, March 16, 1895.

SIR: On receipt of the data contained in your communication of the 7th instant, to the effect that the civil government of this province had issued in October, 1886, a personal pass to Mr. Julio Sanguily, such as are issued to transient foreigners, and inasmuch as the information given in your other communication of the 4th could not be comprobated, because of there existing no antecedents of the case in this office of the secretary-general, his excellency the Governor-General ordered that information be asked of the aforesaid provincial government regarding the issue of the said personal pass, and if Mr. Julio Sanguily was or was not inscribed in the register of the provincial government as an American citizen, with remittance, in the affirmative case, of a literal certificate of the inscription, which measure has resulted in affirming his American citizenship accompanied by certificate of the fact.

Therefore, the Governor-General has on this date issued the following decree:

"It being comprobated by the aforementioned certificate that Mr. Julio Sanguily is inscribed in the register of foreigners kept by the Government of this province as a transient foreigner since the 8th of July, 1889, and it being thereby demonstrated that the said Mr. Sanguily has the right to be considered as an American citizen for all legal effects, the strict fulfillment is ordered in his trial on the charge of an attempt against the public security, of which he is accused, of the provisions of the agreement of the 12th of January, 1877, as claimed by the consul-general of the United States of America at Habana, with instructions to the judge-advocate commissioned by this captaincy-general with the examination of the charge against Sanguily, with respect to it, that he inhibit himself from the cognizance of the same in favor of the civil authority. And that the said consul-general be informed of this decision.

"CALLEJA."

And complying with the order of his excellency, I have the honor to inform you of his decision in answer to your petition formulated the 26th of February last.

God guard you many years.

ESTANISLAO DE ANTONIO.

Mr. Williams to Mr. Uhl.

No. 2462.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 28, 1895. (Received April 3.)

SIR: With reference to previous correspondence relating to Mr. Julio Sanguily, I beg to inclose for the information of the Department a copy of the letter I addressed him on the 27th instant, informing him of the decree of the Governor-General transferring his trial from the military to the civil jurisdiction. I understand that he has appointed Don Pedro Llorente, an eminent lawyer of Habana, for his defense. I was told that Don Pedro would call to see me about the case, but I learn that he is sick, for which reason I suppose he has not been able to come to the consulate-general.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure in No. 2462.]

Mr. Williams to Mr. Sanguily.

UNITED STATES CONSULATE-GENERAL,
Habana, March 27, 1895.

DEAR SIR: Not having received the visit that I have for several days been expecting from the gentleman who I understand you had appointed your advocate, and to whom I had intended to communicate the information of the transfer of your cause from the court-martial to which it had been committed to the civil court for trial,

I now inclose you copy of the official communication received on the 18th instant from the secretary of the General Government informing me of the decree of his excellency the Governor-General transferring your cause from the military to the civil jurisdiction for trial, with the strict observance in your favor of the provisions of the agreement of the 12th of January, 1877, between Spain and the United States, to which you are entitled as an American citizen.

I would recommend that you consult your lawyer at once upon the subject of carrying your case before the civil court.

I am, etc.,

RAMON O. WILLIAMS, *Consul-General.*

Mr. Williams to Mr. Uhl.

No. 2465.]

UNITED STATES CONSULATE-GENERAL,
Habana, April 2, 1895. (Received April 8.)

SIR: Believing that it may interest the Department, I inclose the translation of an article taken from *El Pais*, of this city, purporting to be a recital of the remarks made by the minister of state of Spain on the 4th ultimo concerning the solicitations that I presented to the Governor-general for the trial of Sanguily and Aguirre, American citizens, by the ordinary instead of the military jurisdiction, in accordance with the agreement of the 12th of January, 1877.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2465.—Translated by Consul-General Williams from *El Pais*, of March 26, 1895.]

THE INSURGENTS AND THE GOVERNMENT OF THE UNITED STATES.

In the session of Congress of the 4th instant, Mr. Osma asked the Government if it is true that the consul of the United States at Habana had remonstrated because in Cuba there had been arrested some individuals who favor the independence of that island and who had invoked their title of citizens of the United States for the purpose of obtaining their liberation.

The minister of state replied that he had news of such remonstrance, and said there are three persons arrested who invoke that right for their liberation.

He added that one of them had applied to the American consul and the latter made some observations, but that General Calleja had refused to recognize them and the Government had approved his conduct.

He manifested in opposition that the State exercises all its authority within the territory of its sovereignty, and that therefore all who attempt against the integrity of the country are subject to arrest.

He stated that in Cuba there exists the law relating to foreigners of Mr. Pacheco, and in consequence the parties under arrest can not enjoy greater privileges than Spaniards.

He furthermore explained that as the constitutional guaranties are suspended in Cuba, the Governor-General has the right to arrest all suspicious foreigners the same as Spaniards.

He also said that one year before the peace of Zanjón a protocol was formed at Madrid at the instance of the American minister, because among the insurgents arrested there were some citizens of the United States, and it was declared in the protocol of the 12th of January, 1877, that the natives (*los naturales*) of the great Republic who should take up arms against our country would be tried by the ordinary court—that is, it was granted (*sic*) that they would not be tried by court-martial.

He concluded by saying that the Spanish Government trusted that the Government of the United States will not interpose difficulties against carrying out the laws, and that if there are any who conspire against the country, pretending to shield themselves under the character of foreign subjects, they will be punished without hesitation.

Mr. Uhl to Mr. Williams.

No. 1061.]

DEPARTMENT OF STATE,
Washington, April 4, 1895.

SIR: Your No. 2457, of the 23d ultimo, announcing the transfer of Sanguily's case from the military to the civil jurisdiction, has been received.

Your account of the confusion and delay in understanding the rights of American citizens in this matter, due to the long-postponed publication of the protocol of 1877, has been read with interest.

It is noticed that Governor-General Calleja's decree of March 16, prescribing civil jurisdiction in Sanguily's case, rests ostensibly on the statement that Sanguily has been registered as a transient foreigner since July 8, 1889.

It is hoped that the case of Jose Maria Aguirre will promptly follow the same disposition as that of Sanguily. You will endeavor to prevent any delay on merely technical grounds touching Aguirre's registration, and, as regards proof of his citizenship, you will continue to act in accordance with instruction No. 1057, sent you March 21.

I am, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Williams.

No. 1062.]

DEPARTMENT OF STATE,
Washington, April 5, 1895.

SIR: I am in receipt of your dispatch No. 2462, of the 28th ultimo, inclosing a copy of a letter addressed by you to Mr. Julio Sanguily, informing him of the transfer of his case to civil jurisdiction.

I am, sir, etc.,

EDWIN F. UHL.

[Telegram.]

Mr. Williams to Mr. Gresham.

HABANA, April 25, 1895.

Sanguily was committed yesterday to court-martial for another charge, and as Aguirre and Carrillo had not yet been transferred to civil court, I have protested in the name of the Government of the United States in the three cases.

Mr. Williams to Mr. Uhl.

No. 2491.]

UNITED STATES CONSULATE-GENERAL,
Habana, April 26, 1895. (Received April 30.)

SIR: I have the honor to inform you that in compliance with the telegram of the honorable Secretary of State of the 16th instant, I addressed a communication yesterday to his excellency the general in charge of the Captancy-General, asking for the transfer of Mr. Julio

Sanguily on the second charge from the military to the civil jurisdiction for trial, in accordance with the requirements of the agreement of the 12th of January, 1877, and entering at the same time the formal protest of the Government of the United States before the government of this island against any further delay in his transfer to the civil jurisdiction; protesting alike against all the proceedings hitherto practiced or that may hereafter be practiced by the court-martial now trying him, because they are in clear contradiction of the said agreement between the two nations.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2491.]

Mr. Williams to the Captain-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, April 25, 1895.

EXCELLENCY: Notwithstanding the decree issued on the 16th of March last by his excellency the Governor-General of this island, inhibiting the military jurisdiction of the cognizance of the cause of the American citizen, Mr. Julio Sanguily, and ordering its transfer to a court of the civil jurisdiction in strict observance of the agreement of the 12th of January, 1877, nevertheless I am informed by his advocate that he has again been subjected to a court-martial, by order of the military jurisdiction; this time on a charge alleged to be related to the kidnaping last year of Mr. Fernandez de Castro, and in consequence this American citizen has been again remanded into solitary confinement and deprived of all intercourse with his counsel by order of the court-martial.

This proceeding on the part of the military jurisdiction is not only an infraction of the agreement, but it is likewise in contradiction of the said decree of the 16th of March last, of his excellency the Governor-General of this island.

I have therefore, and in compliance with the instructions of my Government, to ask your excellency to have the goodness to order that this second case against this American citizen be also transferred to the civil jurisdiction for trial as his excellency the Governor-General was pleased to order in the first case; and also by order of my Government to enter its most formal protest before the government of this island against any delay in the transferring of this second cause against Sanguily to the civil jurisdiction; as likewise to protest against all proceedings hitherto practiced in this case or that may hereafter be practiced in this case by the court-martial now trying this American citizen, because they are in clear contradiction of the said agreement between the two nations.

I have, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Springer to Mr. Uhl.

No. 2493.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 4, 1895. (Received May 13.)

SIR: With reference to the correspondence of this office in the cases of Messrs. Julio Sanguily and José Maria Timoteo Aguirre, and especially to Mr. Williams's communication to the government of this island of the 25th ultimo (inclosure to dispatch No. 2491), I have now the honor to accompany copy and translation of a communication received to-day from the acting Captain-General to the effect that orders had been given to have copies made by the special judge of instruction of those parts of the cause instituted against Julio Sanguily and others, for conspiracy for rebellion, which affect the American citizens, Messrs. Julio Sanguily and José Maria [Timoteo] Aguirre Valdes, which copies

would be shortly sent to the civil jurisdiction of this city, his excellency having waived the military jurisdiction in favor of the civil jurisdiction as respects the said parties.

I understand that to-day is the tenth day that Mr. Sanguily has been "incomunicado" (in solitary confinement) by order of the military authority, not allowed the visits of his family, or even to see his advocate appointed by him for his defense.

Very respectfully, etc.,

JOSEPH A. SPRINGER,
Vice Consul-General.

[Inclosure in No. 2498.—Translation.]

Acting Captain-General of Cuba to Mr. Williams.

CAPTAINCY-GENERAL OF THE EVER FAITHFUL ISLAND OF CUBA,
OFFICE OF CHIEF OF STAFF,
Habana, May 4, 1895.

SIR: By a decree examined and approved (auditoriado) under this date, in the cause instituted against the civilian, Mr. Julio Sanguily and several others, for the crime of conspiracy for rebellion, I have resolved among other matters that by the special judge of instruction of said cause shall be made a copy of several parts of the cause wherein it concerns Messrs. Julio Sanguily and José Maria [Timoteo] Aguirre Valdes, American citizens, which copy I shall very soon send to the ordinary jurisdiction of this capital in order that said parties may be tried thereby for crimes imputed to them, for the reason that I have inhibited myself (waived) jurisdiction in favor of said courts in respect to the said parties. Which I have the honor of informing you for your knowledge.

God guard you many years.

JOSÉ ARDERIUS.

Mr. Williams to Mr. Uhl.

35 CAMBRIDGE PLACE,
Brooklyn, May 6, 1895. (Filed June 17.)

SIR: As supplementary to my dispatch No. 2457 of the 23d of March last, I now beg to report to the Department in relation to certain incidents of an unusual and disagreeable nature that arose out of the conversations I had with Gen. Emelio Calleja, then Governor-General of the Island of Cuba, when on the mornings of the 25th and 27th of February and 2d of March last I called on him in defense of the American citizens, Mr. Julio Sanguily and Mr. José Maria Timoteo Aguirre.

As already reported to the Department, these two American citizens were arrested on alleged charges of sedition by the municipal police of Habana on Sunday, the 24th of February last, while peacefully deporting themselves, and lodged in the Cabaña fortress and subjected at once for trial to a court-martial, contrary to the agreement of the 12th of January, 1877, between Spain and the United States, which provides that American citizens arrested under such circumstances or for any other crime without arms in hand shall not be tried by any exceptional tribunal, but by those of the ordinary or civil jurisdiction.

In consequence, and apprehending from the activity displayed by the Government in making arrests, in subjecting the parties arrested to court-martial for trial, in issuing proclamations suspending the action of the civil law in certain cases, and from the haste with which the military jurisdiction was proceeding in the trials of the accused, I went early the next morning, the 25th of February, to see the Governor-General with the view of informing him of the American citizenship of Sanguily. On

reaching the palace I learned that Aguirre had also been arrested and subjected to court-martial, and on being received by the Governor-General, I informed him that both these men were naturalized citizens of the United States, and that as such they were inscribed in the register of foreigners kept by the general government of the Island of Cuba. I then remonstrated against their commitment to the court-martial for trial, and asked for their immediate transfer to the civil jurisdiction in accordance with the terms of the said agreement. The Governor-General was surprised on my informing him of the American citizenship of these men, and instantly answered me in an outburst of most violent language and gesture, saying that it was a disgrace to the American flag for the Government of the United States to protect these men who, it was notoriously known, were conspirators against the Government of Spain, and exclaiming louder, and in still more violent language and gesture, that American citizens were openly conspiring in the United States against Spain, and that he would shoot every one of them caught with arms in hand in any attempt against the government of the island, regardless of the consequences.

Upon this utterance I calmly interjected the remark: "But, General, in carrying out such measures you will surely observe in all its parts the agreement between the two Governments?" Then recovering himself and in moderated tones he answered: "Yes, in observance of the agreement." I then said: "Well, General, that is all I have come to ask for, but these American citizens, instead of having been committed before a civil court in observance of the agreement, have been subjected for trial to a court-martial contrary to the agreement; for neither of them has been captured with arms in hand against the government, but arrested by the municipal police while peacefully deporting themselves in the city (Habana)."

He then made reference to the law governing the residence of foreigners in the Island of Cuba, giving me to understand that it was paramount to the agreement between the United States and Spain. I then replied: "But, General, the Government of the United States will never admit that a local law or regulation is superior to an international compact; that Article VI of the Constitution of the United States is very plain upon this subject; also section 2000 of the Revised Statutes of the United States requires that the same protection to person and property shall be given by the Government of the United States to naturalized citizens in foreign countries as is accorded to native-born citizens." He then said: "Yes, but let the prisoners themselves invoke their rights of American citizenship before my judge-advocate (ante mi fiscal), who will consider and decide upon their rights under the agreement." As this was a plain effort on his part to eliminate my action as the representative of the United States in the matter, I replied: "General, my Government will not accept such a proposition, nor is it contemplated in the agreement that a Spanish judge-advocate could supersede a consular or diplomatic representative of the United States on such an occasion. That therefore, just as soon as possible, I would formulate a remonstrance against the infraction of the agreement in committing Sanguily and Aguirre before a court-martial instead of before a civil court, and would present it to him for his consideration."

Hereupon he again remarked, in a violent tone of voice, as though my action was voluntary and not obligatory, "Your defense of these men is a disgrace to the American flag." I then politely answered him, saying: "General, I am acting entirely within the confines of my official duty

and in accordance with the instructions of the Secretary of State of the United States, and in strict conformity with the agreement of the 12th of January, 1877." I then bid him good morning and withdrew.

I then formulated my remonstrance in favor of Sanguily, under the date of the 26th of February, and presented it to him in person on the morning of the 27th. This time the Governor-General, though evidently not pleased with my action in defending these American citizens, was less ill-humored and more conciliatory than on my first interview, and, after a few introductory and explanatory words on my part, he received my remonstrance, and I withdrew from this second interview and returned to the consulate to take up the case of Aguirre.

Accordingly I drew up my remonstrance and petition in favor of Aguirre on the 28th of February. It was copied the next day—the 1st of March—but too late for presentation in person that day. I then let it lie over until the following morning, and on reaching the office that morning I found on my desk waiting for me the telegraphic instruction of the evening before from the honorable Secretary of State telling me that it had been represented to him that Aguirre was an American citizen, and that if his citizenship was established the agreement of January 12, 1877, applied, and for me to endeavor to secure for him the enjoyment of its guaranties. As this telegraphic instruction was so much to the purpose and so timely, I judged that the reading of it by the Governor-General would at once convince him that I was acting entirely on the lines of official duty, and, besides, remove any mistaken impression he might entertain as to the propriety of my action. I therefore took it with me to the palace, and on my being received, I handed it to him and he read it. But thinking he might not be well acquainted with the English I translated it to him verbally into the Spanish language. He seemed to be satisfied. I then delivered him my remonstrance and was about to take my leave, when he suddenly changed countenance, and spoke to me in a menacing manner, saying: "Mr. Consul, I am told that you are sending alarming news to the newspapers of the United States, but as yet this has not been placed before me in an authentic form;" and added, "You are now advised."

I took this remark as plainly signifying that he would have my exequatur withdrawn by the Madrid Government, and I replied that I would consider it a personal favor if he would order a thorough investigation of the charge either by the government of the island or by the legation of Spain at Washington, inferring from his remark that his information was derived from the latter. I assured him that I had never sent any information to the newspapers of the United States; that my reports on the economic condition of Cuba, to which he could only have referred, were solely addressed to the Department of State, and were made in strict conformity to my consular duties, as defined by the Consular Regulations of the United States, and that if any of them had been published in the Consular Reports, it was done because of reasons satisfactory to the Department; and also if any of them had been reproduced by the newspapers of the United States, it must have likewise been for reasons satisfactory to them. He then retorted that the economic condition of Cuba was unaltered, that the sugar plantations were working, the railroads were running, and that the industries and commerce of Cuba were in harmonious operation, concluding by repeating the remark delivered in a menacing tone: "You are now advised," manifestly referring to the withdrawing of my exequatur. I then replied to him with firmness, but calmly: "General, I have acted

within the limits of my official duty throughout this interview held with you in defense of these American citizens, and in proof of my assertion I have just shown you the telegram received from the Secretary of State of the United States in regard to Aguirre; and furthermore, I must assure you that I will continue to perform my official duties so long as I am consul-general of the United States in this city; and with that I took my leave.

On the next or following day the menacing remarks of the Governor-General were confirmed by telegrams from Madrid, published in the Habana newspapers, to the effect that he had asked the Madrid Government to request my recall.

I respectfully submit the above report to the consideration of the Department, with the assurance that the menace of the Governor-General was entirely without cause or provocation on my part, and having been uttered by him while I was performing the official duty of defending the persons of two American citizens who had been wrongfully subjected to the military jurisdiction of the Island of Cuba, it was therefore both out of time and place.

And, in conclusion, I have also to ask the attention of the Department to the fact that the complaint I presented to the Governor-General against the denial of the intendante-general of the island of the right of the United States consul-general at Habana to address him officially in representation of American interests, a copy of which accompanied my dispatch No. 1837 of April 11, 1893, notwithstanding my several solicitations have not yet been answered by order of the Governor-General.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General of the United States at Habana, Cuba.

Mr. Springer to Mr. Uhl.

No. 2502.]

UNITED STATES CONSULATE GENERAL,
Habana, May 7, 1895. (Received May 13.)

SIR: With further reference to the case of Julio Sanguily, I have now the honor to transmit herewith copy and translation of a communication from his excellency the segundo cabo, acting Captain-General, dated the 6th instant, in answer to the communication of this office of the 25th ultimo, which contained a solemn protest against the subjection of Mr. Sanguily for a second time to a military court and his being put "incomunicado," or into solitary confinement, from the 24th of April, pending such military inquiry, despite the decree of Governor-General Calleja, of March 16, inhibiting or waiving military jurisdiction.

While professing the desire to scrupulously comply with the terms of the protocol between the United States and Spain of January 12, 1877, it will be observed that this Government sees no impropriety of holding an American citizen subject to a military jurisdiction pending inquiry and investigation for proofs to be used against him and furnishing copies of the same upon transfer of his case to a civil court of ordinary jurisdiction for trial. It claims there is no essential difference between military procedure or indictment and the actual trial of the case.

Very respectfully, your obedient servant,

JOSEPH A. SPRINGER,
Vice-Consul-General.

[Inclosure 1 in No. 2502.—Translation.]

The Acting Captain-General of Cuba to Mr. Williams.

CAPTAIN-GENERALCY OF THE EVER FAITHFUL ISLAND OF CUBA,
OFFICE OF CHIEF OF STAFF,
Habana, May 7, 1895.

To the Consul of the United States of America at Habana.

SIR: I have received the communication which, under date of the 25th April last, you addressed me, requesting me, in virtue of the agreement of January 12, 1877, between Spain and the United States, to relinquish cognizance of the military jurisdiction in the cause now being prosecuted against Mr. Julio Sanguily and others, on account of the kidnapping case of Don Antonio Fernandez Castro; and in view thereof, in order to prove to you that in the present case justice has proceeded with the moderation which is bound to be observed in all its decisions, watching not only for the interests of public law, but also for private rights, I again reproduce my communication of the 29th April last, in consequence of another cause, which was also being prosecuted against the same citizen and Mr. Jose Timoteo Aguirre Valdes, for rebellion.

In my firm intention of scrupulously complying with the aforesaid agreement, I would have sooner ceased in the cognizance of the fact being tried in said cause, but there existed the absolute necessity of not only proving the status of American citizen of said party, but also the accusation pending against him in the said kidnapping case.

Up to the present it was not a question of being tried by a court-martial, but rather of proving the participation that might have been taken in the acts of which he is accused, and between the two, judicially, there is an essential difference, and it can not be denied that the National State has powers based on the general rules of international law, to attend speedily and within its own legislation to practice all the proceedings required in verification of the offenses committed within its territory and to determine the culpability of those who may have taken part therein.

The status of American citizenship of Mr. Julio Sanguily having been established in the two causes referred to under date of the 4th instant, I decreed the inhibition in favor of the ordinary jurisdiction in the cognizance of the cause which was being prosecuted by reason of said kidnapping case, wherein the same might refer to the said citizen, allowing at once his communication (release from solitary confinement) in the fortress where he was confined, at the disposition of said jurisdiction and to which I shall shortly transmit the corresponding copy of the proceedings showing the degree of guilt, that by the competent court it shall duly proceed as corresponds thereto.

God guard you many years.

JOSÉ ARDERIUS, *The General 2do Cabo.*

[Telegram.]

Mr. Uhl to Mr. Springer.

DEPARTMENT OF STATE,
Washington, May 21, 1895.

Carillo's case, involving most important principle, has been presented by United States minister to Spain. In cases of Aguirre and Sanguily you will file formal protest declining to recognize validity of military jurisdiction in preliminary stage.

The treaty of 1795 excludes the exercise of military jurisdiction altogether and requires arrests to be made and offenses proceeded against by ordinary jurisdiction only. Protocol merely recognizes, declares, and explains this treaty right. Military arm has no judicial cognizance over our citizens at any stage. Even arrest, when made by military power, is by a conventional figment deemed to have been a civil act. By no fiction can proceedings of military judge instructor be deemed the act of an ordinary court of first instance. Assumption of such cognizance in Aguirre case and rearrest of Sanguily, after submission

to civil court, apparently for mere purpose of asserting military jurisdiction in summary proceedings, were an exercise of functions against which you will enter protest, reserving all rights of this Government and its citizens in the premises.

Mr. Springer to Mr. Uhl.

No. 2507.]

UNITED STATES CONSULATE-GENERAL,
Habana, May 25, 1895.

SIR: I have the honor to acknowledge the receipt on the 22d instant of your telegram of the 21st instant, relative to the cases of the American citizens Carrillo, Sanguily, and Aguirre, with instructions to file a formal protest in the cases of the last two named, declining to recognize the validity of the military jurisdiction in any stage of the proceedings instituted against them by the authorities of this Island.

I have therefore to-day presented a formal protest to his excellency the Governor-General in a communication in which I have set forth the views of the Department expressed in said telegram, and protested in the name of the Government of the United States, reserving all its rights and those of its citizens in the premises.

To aid the dispatch of business, I accompanied my communication to the Governor-General with a translation thereof into Spanish, and also transmit a copy of the same to the Department.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

[Inclosure in No. 2507.]

Mr. Springer to the Governor-General of Cuba.

U. S. CONSULATE-GENERAL,
Habana, May 25, 1895.

EXCELLENCY: With further reference to the cases of the American citizens, Julio Sanguily and Jose Maria Timoteo Aguirre, and your excellency's communications of the 29th April and 4th May, in reply to the communications which this office had the honor to address to your excellency on the 24th and 25th April, respecting the delay in the delivery of said American citizens to the civil jurisdiction for trial, and in protest of the proceedings hitherto practiced or that might thereafter be practiced in the procedure against them under military jurisdiction, I have now, in obedience to instructions of my Government, to lay before your excellency the following:

Upon learning of the arrest of the said American citizens, Sanguily and Aguirre, on the 24th of February last, by the military authorities of this island, this office immediately informed your excellency that the said parties were citizens of the United States, and asked that your excellency be pleased to order the strict observance of the treaty stipulations between the United States and Spain in the trial of said citizens for the alleged offenses for which they were arrested.

Subsequent correspondence upon the subject of their citizenship conclusively proved that each had fully complied with the requirements of the "law relating to foreigners," of July 4, 1870, and local police regulations, in respect to their inscription and recognition as such citizens of the United States, and their acquired domicile in this country. Therefore His Excellency Governor-General Calleja, under date of the 16th of March, decreed the inhibition of the military jurisdiction in the case of Sanguily and ordered its transfer to a court of the civil jurisdiction; and your excellency, on the 29th of April, decreed to the same effect in the case of Aguirre.

But, from the opinions of your auditor de guerra (war solicitor), it appears that both citizens have been held ever since by the military jurisdiction at the disposition of the special judge who has cognizance of the cause instituted in investigation of the alleged offenses for which they were arrested, and have been within the

period of preliminary proceedings or "sumario," and, therefore the cognizance of a court-martial as yet is disclaimed, and, treating only of investigation and procuring of evidence for the trial, there is declared to be an essential difference in being indicted (procesado), and the actual trial by court-martial.

In the case of Sanguily, he was again subjected to military jurisdiction on another charge, but kept in solitary confinement (incomunicado) some twelve days and deprived of all intercourse with his counsel whom he had engaged for his defense, and with his family and friends.

In your excellency's communication of the 4th of May, while stating that you had inhibited the military jurisdiction in favor of the civil jurisdiction for the trial of said citizens, your excellency also declared that you had ordered the special judge of instruction in the cause against Sanguily and sundry others for conspiracy for rebellion to extract copies of certain parts of the same affecting Sanguily and Aguirre, to be transmitted shortly to the ordinary jurisdiction by which they should be tried for the crimes imputed to them.

But in the cases of these American citizens, the Government of the United States declines to recognize the validity of the military jurisdiction in the preliminary stage as well as in the procedure and trial. The treaty celebrated between the United States and Spain of the 27th October, 1795, in its seventh article, excludes the exercise of military jurisdiction altogether, and requires "in all cases of seizure, detention, or arrest for debts contracted or offenses committed, by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases."

The protocol of January 12, 1877, recognizes, declares, and explains this treaty right. The military arm has no judicial cognizance over citizens of the United States at any stage, and even the arrest when made by military power is by a conventional figure deemed to have been a civil act. But by no fiction can the proceedings of a military judge instructor be deemed the act of an ordinary court of first instance, and the assumption of such cognizance in the case of Aguirre, and the rearrest of Sanguily after inhibition of the military jurisdiction and the submission of his case to a civil court, apparently for the mere purpose of asserting military jurisdiction in summary proceedings, were an exercise of functions against which I am instructed by my Government to enter its most formal protest, as I now do, reserving all the rights of the Government and its citizens in the premises.

I have etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Uhl to Mr. Springer.

No. 1037.]

DEPARTMENT OF STATE,
Washington, June 10, 1895.

SIR: I am in receipt of your dispatch No. 2507, of the 25th ultimo, with inclosed copy and translation of a communication addressed by you to the Governor-General in obedience to the Department's telegram of the 21st ultimo, protesting against the validity of military jurisdiction in the cases of Carrillo, Sanguily, and Aguirre, in any stage of the proceedings instituted against them by the Cuban authorities.

I am, etc.,

EDWIN F. UHL.

[Telegram.]

Mr. Uhl to Mr. Springer.

DEPARTMENT OF STATE,
Washington, June 18, 1895.

On May 6 Sanguily was still in military prison, his transfer to civil jurisdiction being promised as soon as military proceedings could be

copied. If not yet transferred, you will demand that military imprisonment cease forthwith and that he be speedily given civil trial on charges preferred by civil process, or else released. Telegram sent you May 21 and your protest thereunder make clear the refusal of this Government to recognize military jurisdiction in first instance.

Mr. Springer to Mr. Uhl.

No. 2521.]

UNITED STATES CONSULATE-GENERAL,
Habana, June 21, 1895.

SIR: I have the honor to acknowledge the receipt of your telegram of 18th instant.

In reply, I have to state that the transfer of the causes of Sanguily, as well as the case of Aguirre, was made to the civil jurisdiction about the middle of May last, and are now being prosecuted before the judge of the Cerro district court, specially assigned thereto, and will be decided in special part of this superior court (*sala especial de la exina audiencia*).

The cases of Sanguily and Aguirre present the anomaly that, whereas they were arrested upon the breaking out of the insurrection upon the charge of conspiracy and attempt at rebellion, they have not yet been brought to trial, while many others arrested subsequently, not upon suspicion or attempts, but for overt acts of participation in the insurrection, and those who presented themselves to the authorities within the period in which was promised pardon for their offense have been released, and are now at liberty.

Only the three American citizens, Sanguily, Aguirre, and Carrillo, arrested solely on suspicion and charged with attempt at rebellion, were subjected to extreme arbitrary measures and harsh treatment by the military authorities before the efforts of the United States Government succeeded in getting their cases transferred to the civil jurisdiction. In the case of Carrillo there was no process instituted, no indictment drawn, but he was held under an arbitrary gubernative order until released and deported to the United States.

There seems to be no reason for the intentional delay in prosecuting the charges against Sanguily and Aguirre, and their continued imprisonment, and the deduction is obvious that they are discriminated against on account of their quality of being American citizens.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Springer to Mr. Uhl.

No. 2523.]

UNITED STATES CONSULATE-GENERAL,
Habana, June 25, 1895.

SIR: I have the honor to acknowledge the receipt of your telegram, dated 24th instant, reading:

WILLIAMS, *Consul-General, Habana:*

Department is informed Aguirre is required in violation of law to deposit \$10,000 or have his property seized as security for costs, and that his lawyer in violation of treaty has not been permitted to examine charges against him. This Department regards such a proceeding as unwarranted. You will forthwith investigate the situation and report by cable the facts.

UHL.

After an interview with the counsel of defense of Aguirre, and also Sanguily, I have cabled the following, which I now confirm, with the observation that the word "bail-bond" is not used in the sense of a security given for the release of a prisoner, but a special bail in court to abide the judgment.

ASSISTANT SECRETARY OF STATE,
Washington, D. C.:

Bail bond of \$10,000 required of Aguirre or in default thereof embargo of property for costs is according to law, but his lawyer has not yet been permitted to examine charges, the court stating that all "sumarios" are secret according to Spanish criminal law. Bond the same in Sanguily's case, and in addition one for \$20,000 for charge of kidnapping.

SPRINGER, *Vice-Consul-General.*

I am informed by Sanguily's lawyer that another person was connected with him on the same charges or indictment of kidnapping a certain Geraldo Portela, of this city, who was arrested subsequent to Sanguily, and confined in the Morro Castle. The case of Portela was instituted before the military authorities, while that of Sanguily was passed to the civil jurisdiction. Portela was not brought to trial, but his case was quashed and he has been released for nearly a month, and under no kind of restriction, whereas Sanguily is still imprisoned in the Cabaña fort awaiting trial.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Adeë to Mr. Williams.

No. 1100.]

DEPARTMENT OF STATE,
Washington, July 8, 1895.

SIR: Your dispatch No. 2521, of the 21st ultimo, relative to the cases of Sanguily and Aguirre, has been received.

The contents of the dispatch have been communicated to Manuel Sanguily and Gen. N. L. Jeffries.

I am, etc.,

ALVEY A. ADEE.

Mr. Adeë to Mr. Williams.

No. 1101.]

DEPARTMENT OF STATE,
Washington, July 8, 1895.

SIR: Referring to your dispatch No. 2523, of the 25th ultimo, in which you state that another person was arrested subsequently to Mr. Sanguily, on the same charge of kidnapping, and that he was tried, the indictment quashed, and the person released, you are instructed to call the attention of the authorities to the discrimination shown against Mr. Sanguily in holding him for trial and quashing the indictment against his alleged accomplice.

I am, etc.,

ALVEY A. ADEE.

[Telegram.]

Mr. Adeë to Mr. Williams.

DEPARTMENT OF STATE,
Washington, July 23, 1895.

From independent sources, apparently authentic, Department is advised that Habana volunteers parade 24th instant and may demand

instant execution of Sanguily and Aguirre and probably other Americans. American citizens under treaty provisions are admittedly entitled to trial by ordinary civil procedure. Department is convinced that authorities will never yield to a demand for summary proceedings but ask that precautions will be taken to prevent extrajudicial violence. The gravity of the situation which would result should any injury be done them can not be overestimated. Communicate this to the proper authorities.

Mr. Williams to Mr. Adee.

No. 2541.]

UNITED STATES CONSULATE-GENERAL,
Habana, July 24, 1895.

SIR: I telegraphed you in substance this morning in answer to your telegram of yesterday that on communicating its purport last evening to General Arderius, the acting Governor-General, he asked me to assure you there was no ground whatever for fearing that the volunteers might demand the instant execution of Sanguily and Aguirre, or of other Americans; that the volunteers had obtained permission to parade to-day, it being the saint's day of the Queen Regent, in the supposition that Gen. Martinez Campos would be present to review them, but he being absent the parade had been suspended.

From my own observations and sense of the personal security of Americans, I added that I saw no cause for apprehension and that perfect discipline and subordination existed among the troops and volunteers.

The acting Governor-General appreciated the communication of the Department as a friendly act, and attributed the false reports upon which it was founded to machinations of the enemies of Spain, who desire to create a misunderstanding between the two Governments.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Uhl.

No. 2543.]

UNITED STATES CONSULATE-GENERAL,
Habana, July 27, 1895.

SIR: Herewith I inclose a copy of a letter dated the 25th instant at West Tampa, Fla., and addressed to me with a draft of \$150 on the Bank of the Republic, New York, by Messrs. Theodore Perez & Co. for delivery to Mr. Julio Sanguily, at the Fortress Cabana, this city. I return the said letter and draft, with the respectful request that the Department return them to Messrs. Theodore Perez & Co. with the suggestion that those gentlemen forward them direct to Mr. Sanguily, as this office ought not to take charge of his private correspondence, unless otherwise directed by the Department.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2543.]

Messrs. Teodoro Perez & Co. to Mr. Williams.

WEST TAMPA, FLA., July 25, 1895.

DEAR SIR: We beg to inclose you draft on New York for the amount of \$150, which we beg of you to cash and deliver the amount to Mr. Julio Sanguily, the American citizen now in prison in Habana.

We beg of you, too, to deliver him the inclosed letter.

With respect, remain yours,

TEODORO PEREZ & Co.

Mr. Williams to Mr. Adee.

No. 2549.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 2, 1895.

SIR: With reference to previous correspondence relating to the case of Mr. Julio Sanguily, I have now the honor to inform the Department that Mr. Miguel F. Viondi, the lawyer chosen by Mr. Sanguily for his defense, tells me that the judge encharged with the examination proceedings has assured him that the process (sumario) will be sent this week to the trial court.

Mr. Viondi will then see it and make me a synopsis of it. As soon as it is received I will send a copy of it to the Department.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Adee.

No. 2558.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 7, 1895.

SIR: I have the honor to inclose a copy of a letter, dated the 5th instant, received at this office to-day from Messrs. Teodoro Perez & Co., of West Tampa, Fla., asking me to acknowledge the receipt of a draft of \$150, the same which I returned through the Department in my dispatch No. 2543, on the 27th ultimo. I beg the Department to proceed with the present case as in its judgment it may deem best.

As the family of Mr. Sanguily resides in this city, I would recommend Messrs. Teodoro Perez & Co. to address him through it. At any rate, it would be highly injudicious and indiscreet on the part of this office to become the medium for the transmission and delivery of the private correspondence of those gentlemen.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2558.]

Messrs. Teodoro Perez & Co. to Mr. Williams.

WEST TAMPA, FLA., August 5, 1895.

DEAR SIR: On July 25 we addressed you a letter inclosing a draft for \$150, to be delivered to Mr. Julio Sanguily.

Will you be kind to acknowledge receipt of same.

Yours, respectfully,

TEODORO PEREZ & Co.

Mr. Adee to Mr. Williams.

No. 1119.]

DEPARTMENT OF STATE,
Washington, August 7, 1895.

SIR: Your dispatch No. 2543, of the 27th ultimo, inclosing a letter and draft which you were requested to deliver to Mr. Julio Sanguily, has been received.

Your action in not delivering the letter is approved, and Messrs. Teodoro Perez & Co. have been so informed. It would seem, however, that with the knowledge and assent of the authorities, you could hand the proceeds of the draft to Mr. Sanguily with a statement of the source from which it comes. The draft is returned to you for delivery in accordance with the above suggestion.

I am, etc.,

ALVEY A. ADEE.

Mr. Williams to Mr. Adee.

No. 2570.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 17, 1895.

SIR: I have the honor to acknowledge the receipt of the Department's instruction, No. 1119, of the 7th instant, approving the return, with my dispatch, No. 2543, of the 27th ultimo, of the letter sent by Messrs. Theodore Perez & Co., of Tampa, Fla., under cover to this consulate-general for delivery to Mr. Julio Sanguily; as also to inclose herewith a duplicate and triplicate receipt signed by the same Mr. Julio Sanguily for the sum of \$164.25 Spanish gold, as the proceeds of the draft of \$150 United States currency, signed by J. B. Anderson at Tampa, Fla., July 25, 1895, on the National Bank of the Republic, New York, and indorsed and sold by me to Messrs. Laston Bros., Habana, at $9\frac{1}{2}$ premium of exchange.

Prior to taking charge of the negotiation of this draft, I made a visit, in pursuance of the Department's suggestion, to the Acting Governor-General, General Arderius, to give him a statement of its source, and to ask and obtain his consent for the delivery of its proceeds to Mr. Sanguily. The general readily and cordially consented, with the remark that my application first for the consent of the authorities was the correct course in the matter on the part of this consulate-general.

I beg the Department to send the triplicate receipt to Messrs. Theodore Perez & Co., at Tampa, Fla., with attachment of the duplicate for filing to this dispatch.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Duplicate.]

FORTRESS CABANA, *Habana, August 17, 1895.*

Received of Ramon O. Williams, consul-general of the United States at Habana, the sum of \$164.25 in Spanish gold, equivalent to a draft to his order, signed by G. B. Anderson, at Tampa, Fla., July 25, 1895, on the National Bank of the Republic, New York, for \$150 United States currency, equal to \$164.25 Spanish gold.

JULIO SANGUILY.

Mr. Williams to Mr. Adee.

No. 2580.]

UNITED STATES CONSULATE-GENERAL,
Habana, August 27, 1895.

SIR: With reference to my dispatch No. 2519, of the 2d instant, I have the honor to report that Mr. Miguel Viondi, the advocate of Mr. Julio Sanguily, has informed me that he has been disappointed in his hope of the closing and submission of the examination proceedings of this case from the lower to the upper or trial court, as before expressed by him, and transmitted to the Department in my said dispatch No. 2549, and now tells me that, the proceedings having been delayed beyond his expectation by the lower court, he petitioned it on the 19th instant to be allowed to view them; but this has been refused, on the ground that the court has or is about to issue commissions for the taking of the testimony of parties now in Spain. This, of course, as he says, will prolong the delay already incurred in bringing the case to trial.

By reason of this delay and the prospect of its prolongation on the part of the lower court, Mr. Sanguily has addressed a communication in the Spanish language, dated the 20th instant, to the Honorable Secretary of State, which he sent me for transmission on the 24th instant. On receiving this communication, I observed to the bearer that as the official language of the Government of the United States is the English, and as Mr. Sanguily is an American citizen, that if he believed he had reasons justifying him to address the Honorable Secretary, that, in my opinion, he should have done this in the English and not in a foreign language. But this suggestion not having been heeded, I accompany the communication herewith.

I have also to inform the Department that the lower court refused to grant the petition of Mr. Alfredo Zayas, the advocate of Mr. José Mas Timoteo Aguirre, who, likewise, solicited at the same time with Mr. Viondi, the view (*la vista*) of the proceedings in the case of his client; and that in consequence of this refusal he has complained to the upper court, as authorized under the code of criminal procedure, instead of his client appealing direct to the Honorable Secretary of State, and I understand that the chief justice has the complaint of Mr. Zayas now under consideration.

In this connection I beg to observe that this consulate-general is frequently called on by friends of Mr. Sanguily and Mr. Aguirre to undertake proceedings before the court and before the Government in their cases, apparently under the belief that their defense is encharged to this office. And notwithstanding that on many of these occasions I have explained in answer that neither article 7 of the treaty of 1795 nor the explanatory protocol of the 12th of January, 1877, confer any authority or right on the diplomatic and consular officers of Spain to interfere or take part in the judicial proceedings that might take place regarding Spanish subjects under similar allegations in the United States, nor that such authority is conferred on the diplomatic and consular officers of the United States with regard to American citizens alike charged within the dominions of Spain; and that the defense of Spanish subjects and American citizens before the courts is left exclusively to the law officers of the respective countries; still, it is often asked if it is not primarily encharged with the defense in these cases, how came it to take upon itself the authority to solicit of the Governor-General their transfer from the court martial to which they had been subjected, to a civil court for trial? And that when it is explained to

them that by article 19 of the treaty of 1795 that the consular officers of the United States within the dominions of Spain, and conversely that the consular officers of Spain within the jurisdiction of the United States, enjoy, respectively, the privileges and powers of those of the most favored nation; and that in consequence this consulate-general is invested, in accordance with article 9 of the consular treaty of February 22, 1870, between Spain and Germany, with the right to complain to the Governor-General of this island against the infraction of all treaties and agreements between the United States and Spain; and that inasmuch as the protocol of the 12th of January, 1877, was infringed from the start by the subjection of these citizens to the military jurisdiction, that this office being duly authorized thereto, under the said article 19 of the treaty of the United States with Spain, and article 9 of that between Spain and Germany, did not hesitate for a moment to request the transfer of these American citizens to the civil jurisdiction for trial; but that the moment the Governor-General complied with the protocol by their transfer to the civil court, the intervention of this office ceased and that of the law officers began; and that if no mistake had been made in the procedure established by the protocol there would have been neither occasion nor authority for the intervention of this office in these cases, yet none of these explanations seem to convince or satisfy.

As illustrative of the matter, I would respectfully recall the case of Mr. Cirilo Pouble, which occupied the almost daily attention of the Department and this consulate-general for four years; for notwithstanding he appointed his own advocate, still his demands and those of his friends were not made on his advocate, but almost entirely on the consul-general, even to the extent of the presentation of a complaint through an attorney at Washington to the Senate of the United States. Similar expectations were also raised in the Oglesby case.

For these reasons I would respectfully submit the question as to the propriety of the employment by the Department of legal counsel to this consulate-general; and in the case of its affirmative resolution I beg to recommend the name of Mr. Antonio Govin, a distinguished member of the bar of this city.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure in No. 2580.—Translation.]

Mr. Sangui to Mr. Olney.

Julio Sangui, a citizen of the United States of America, who has been arrested by the Spanish authorities and is now imprisoned in the fortress called "La Cabaña," hereby states that criminal proceedings have been instituted against him and he has been incarcerated in violation of Spanish law, and on account of an act with which he has been falsely charged, with a view to injuring his good name.

Anyone examining the case calmly from its two points of view must become convinced that your petitioner is prosecuted and punished either for the reason that he is a citizen of the United States of America, or for a political idea for which, even if any such idea had been entertained, he would have to be acquitted according to Spanish law.

First case.—That he must be acquitted according to Spanish law.

Your petitioner is charged with an intention, a thought, an idea which, even if he had begun to put it into execution, would be called by Spanish law, as it would by the penal law of every country in the world, tentative; that is to say, something which technically falls far short of being a crime, since a crime begins with the performance of the act.

Your petitioner was surprised at his home, in the bosom of his family, and placed under arrest by military authorities, who subsequently, at the instance of the United States Government, turned the case over to the civil authorities. Both the military

and civil authorities are agreed that your petitioner can be held responsible for nothing more than an attempt to commit an offense, which, in law, as already remarked, falls far short of the offense itself.

Now, the Spanish law, by a proclamation issued by General Callejas, pardoned all persons guilty of rebellion, provided that they surrendered to the authorities before the expiration of fifteen days after the issuance of the proclamation.

It is therefore evident that your petitioner, who, even if he were guilty of anything, would be guilty of a mere attempt to commit an offense, which, in law, as already remarked, falls far short of the offense itself.

Now, the Spanish law, by a proclamation issued by General Callejas, pardoned all persons guilty of rebellion, provided that they surrendered to the authorities before the expiration of fifteen days after the issuance of the proclamation.

It is therefore evident that your petitioner who, even if he were guilty of anything, would be guilty of a mere attempt to commit an offense, which is much less than the crime of rebellion for which a pardon was granted to those who rose in arms, but surrendered to the authorities within the time designated, is certainly included in the pardon granted by General Callejas, for it is not conceivable that this pardon should favor those who did more, and should injure and punish one who has never committed any offense.

In all cases, without exception, and in all penal systems, the law is interpreted in a manner favorable to the person charged with crime. Spanish citizens who took up arms against their Government have been pardoned in the manner above described, while your petitioner, who is charged with merely attempting to commit the same offense, has been suffering the horrors of imprisonment for six months, as if he were punished for a punishable intention because he is a citizen of the United States of America.

The act for which the undersigned is prosecuted does not, for the reason stated, subject him to condemnation. There is no ground for a prosecution in his case, and all that need be done is, when the charges against him are declared to be true, to require the Spanish Government to release an American citizen who is protected by the very Spanish law, on the ground of which the proclamation of General Callejas was issued.

Second case.—He is falsely charged with the crime of kidnaping. Proof to the contrary.

After the Spanish military authorities found that they were not competent to institute proceedings against citizens of the United States, they deprived the undersigned of the privilege of seeing his counsel, and kept him in solitary confinement for twelve days.

This crime (kidnaping) was alleged to have been committed by your petitioner and Don Gerardo Portela, a Spanish citizen. The charges against both were in all respects identical. The prosecution, at the instance of the United States consul, was divided. One portion was turned over to the civil authorities, and the other remained in charge of the military. Well, the military authorities released Portela at once, and the civil authorities have kept your petitioner in prison for five months without any actual reason.

The difference in the treatment of the two parties can be explained in no other way than by considering that the one is a citizen of the United States of America, for which he is imprisoned, while the other is a Spanish citizen.

Your petitioner does not ask to be believed on his mere assertion. The United States consul at Habana has knowledge of all these antecedents, and, if the case requires it, can inform your Government as to the correctness of the statements made. And if these statements are true, how can it be that a citizen of the United States is allowed to remain in prison, and that the United States Government does not tell that of Spain that it must strictly obey the law?

The undersigned hopes that his Government will grant him the protection which, according to the Constitution of the United States, is his due. That Constitution has, in his case, been violated by the Spanish Government, and no protest has been made against this violation.

J. SANGUILY.

HABANA, August 20, 1895.

Mr. Adee to Mr. Williams.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 3, 1896.

In view of protracted delay in Sangui case, of disregard of petition preferred by him on suggestion of authorities that it will secure

his release, and of acquittal of Gerardo Portela, jointly accused with him of kidnapping, the Department feels compelled to demand his immediate trial or release.

Mr. Williams to Mr. Adee.

[Telegram.]

HABANA, *September 6, 1896.*

Aguirre just released and Sangui's case will be tried soon.

Mr. Williams to Mr. Adee.

No. 2585.]

UNITED STATES CONSULATE-GENERAL,
Habana, September 6, 1895.

SIR: I have the honor to acknowledge the receipt of your telegraphic instruction of the 3d instant.

Apprehending from those words of this telegram saying "of disregard of petition proffered by him on suggestion of authorities that it would secure his release" that a misrepresentation had been made to the Department, I telegraphed you on the following morning as follows:

Sanguily suggested and with the knowledge and consent of his advocate addressed a letter to this office soliciting its informal intervention for his release and embarkation, but I know of no petition proffered by him on suggestion of the authorities that it would secure his release. Will send copies of correspondence.

I now inclose a copy and translation of the communication which, in accordance with your said telegram, I addressed yesterday to his excellency the Governor-General asking for the speedy trial or the immediate release of Sanguily.

In this connection I also copy herewith my telegram of this date announcing the release of Aguirre and the early trial of Sanguily:

Aguirre just released and Sanguily's case will be tried soon.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2585.]

Mr. Williams to the Governor-General of Cuba.

UNITED STATES CONSULATE-GENERAL,
Habana, September 6, 1895.

EXCELLENCY: In compliance with a special instruction received from my Government, I have to complain to your excellency against the unusual delay that is being observed by the court of the Cerro district of this capital in preparing the proceedings for submission to the higher or trial court in the case of Mr. Julio Sanguily, an American citizen, arrested and imprisoned at the Fortress Cabana since the 24th of February last. And in further support of this complaint I have to inform your excellency that I now learn with surprise that the court, after having had the examination of the charges and formation of indictment against Sanguily under its exclusive direction for the last six months, has just issued letters rogatory for the taking of evidence in Spain, which proceeding must necessarily prolong the delay already incurred, an indefinite time, contrary to the meaning of the agreement of the 12th of January, 1877, between the United States and Spain, with the subjection of this

American citizen in the meantime to all the bitter sufferings inseparable from imprisonment and loss of personal freedom; this being the more remarkable since Mr. Gerardo Portela, a Spanish subject, who was jointly accused with Mr. Sanguily of kidnapping, has been tried and acquitted, because of his innocence, by a competent court of the country.

Therefore, it being the opinion of the Government of the United States that the delay in bringing this American citizen to trial is unjustifiable, it has ordered me to bring this complaint to the immediate attention of your excellency, as the superior representative of the Government of Spain in this island, and to ask your excellency, as such representative, to please exercise your executive authority for the speedy trial or for the immediate release of Mr. Julio Sanguily, permitting myself to remind your excellency, in favor of this petition, of the declaration made on the part of Spain in the said agreement, which says:

"In view of the satisfactory adjustment of this question in a manner so proper for the preservation of the friendly relations between the respective Governments, and in order to afford to the Government of the United States the completest security and good faith of His Majesty's Government in the premises, command will be given by royal order for the strict observance of the protocol in all the dominions of Spain, and specifically in the Island of Cuba."

In conformity with these and the other provisions of the said agreement, and confiding in the good disposition always shown by your excellency in the fulfillment of the treaty obligations on the part of Spain toward the United States, I can not but trust that your excellency will, in the exercise of your executive functions, order either the speedy trial or the immediate release of the said American citizen, Mr. Julio Sanguily.

I avail myself, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Rockhill to Mr. Williams.

No 1145.]

DEPARTMENT OF STATE,
Washington, September 7, 1895.

SIR: Your cable dispatch of the 6th instant has been received, as follows:

Aguirre just released and Sanguily's case will be tried soon.

Mr. Aguirre's friends have been informed of his release. Your report of the circumstances of his enlargement are awaited before commenting on this tardy relief of a citizen of the United States confined under conditions which have enlisted the lively sympathy and earnest efforts of this Government in his behalf.

You will continue to press for speedy and equitable treatment of Sanguily's case.

I am, etc.,

W. W. ROCKHILL.

Mr. Williams to Mr. Ades.

No. 2586.]

CONSULATE-GENERAL OF THE UNITED STATES,
Habana, September 11, 1895.

SIR: With reference to my dispatch No. 2585, of the 6th instant, inclosing a copy and translation of the communication that, in accordance with your telegraphic instruction of the 3d instant I addressed the Governor-General, asking for the speedy trial or release of Mr. Julio Sanguily, I now have the honor to transmit a copy and translation of the answer of his excellency thereto, dated the 6th instant.

You will please notice that he says in this answer that consuls are not invested with diplomatic functions, and therefore they can not rightfully present official remonstrances in affairs of government; and can only address themselves confidentially to the authorities for the purposes of inquiry and for reporting to their Governments. Also that he makes the present explanations in the interest of harmony and good relationship, and can not repeat them should the Government of the United States not become convinced of their correctness; because not being invested himself with authority to treat upon such questions as the one at issue, this attribute residing solely in his Government, all remonstrances of this nature should, therefore, be addressed solely to it.

As related to this matter, and as showing the measure of the rights of this consulate-general to apply to the governmental authorities of the island, under article 19 of the treaty of the 27th of October, 1795, between the United States and Spain, I copy herein, translated, articles 9 and 19 of the consular treaty of the 22d of February, 1870, between Spain and Germany, which say:

ARTICLE 9. Consuls-general, consuls, vice-consuls, or consular agents shall have the right to address the authorities of their district in remonstrance against every infraction of the treaties or conventions existing between the two countries, and against whatever abuse complained of by their countrymen.

If their remonstrances should not be attended to by the authorities of the district, or if the decisions of the latter should not appear to them satisfactory, they may apply, in the absence of the diplomatic agent of their country, to the Government of the country where they reside.

And,

ARTICLE 19. All the provisions of the present convention will be applicable and have effect in all the territory of Spain, and also in all the territory of North Germany, with inclusion of the colonial possessions of Spain, subject to the reservations contained in the special régime of said possessions.

It is inferable from the explanations of the Governor-General that he may consider that, so long as our minister to Spain is present at Madrid, our diplomatic agent, as expressed above, is not absent from the country, this island being a part of the territory of Spain; and, therefore, this question and similar ones should, in his opinion, be presented by our Government to that of Spain through our legation at Madrid and not through this consulate-general, because of thereby recognizing in the latter a quasi diplomatic character. This view on the part of the authorities here has been already expressed to me before on occasions when I have had to converse with them on the subject of fines imposed by the custom-houses on our shipping for clerical errors in vessels' manifests. And in this connection I beg to refer to my dispatches Nos. 1075, 1080, 1085, dated, respectively, the 25th of January, the 4th and 5th of February, 1890; as also to my No. 1857, of the 11th of April, 1893, and to the Department's instruction No. 71 to our minister at Madrid, Mr. Palmer, of the 12th of March, 1890, and its No. 516, of the 19th of March, 1890, to this office.

In justice to Gen. Martinez de Campos, the present Governor-General, I can not but recognize in him a most friendly disposition and promptness in listening to all matters presented personally to his attention by this office, as will be seen from the copy accompanying of his unofficial note to me, dated also the 6th instant, in relation to the trial of Aguirre and Sanguily.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2586.—Translation.]

Gen. Martinez de Campos to Mr. Williams.

MANSION OF THE GOVERNOR-GENERAL OF THE ISLAND OF CUBA,
Habana, September 6, 1895.

SIR: I have received the official note in which you give me an account of the telegram received from the Honorable Secretary of State, acting, of your nation, and in reply I believe myself in duty bound to say that you have complied with the order of your chief, and I am grateful for the courteous and attentive manner with which you have done it, and as is so customary with you on all occasions; but you must permit me to observe that consuls are not invested with diplomatic functions and therefore they can not with right present official remonstrances in affairs of government—they can only address themselves confidentially to the authorities for the purpose of inquiry and of reporting to their Governments.

But as the said telegram, in the part you communicate to me, appears to involve a charge respecting the prolongation of the case of Sanguily and the discharge of Gerardo Portela, who figured together on initiating the process against them for kidnaping, I must say to you that the innocence of Portela having been proved he was set at liberty, but undoubtedly the same can not have happened with respect to Sanguily, and therefore the process with respect to him and others still continues; besides, owing to Sanguily being an American citizen, and the reclamation of that consulate of your worthy charge, the process was divided in consequence, in accordance with the treaty of 1877, the part pertaining to Sanguily passing to the civil or ordinary jurisdiction and that of the others accused jointly with him remaining subject to the military jurisdiction, whose proceedings are usually more rapid.

These indications, which for the sake of harmony and good relationship I make you, could not be continued if the Government of your nation should not become convinced of their correctness, for not being myself invested with authority to treat this question, and it being solely an attribution of my Government, all remonstrances should be addressed to it.

God guard you many years.

ARSENIO MARTINEZ DE CAMPOS.

[Inclosure 2 in No. 2586.—Translation.]

Gen. Martinez de Campos to Mr. Williams.

[Personal.]

THE GENERAL IN CHIEF OF THE ARMY OF OPERATIONS IN CUBA,
Habana, September 6, 1895.

MY DEAR SIR AND FRIEND: As I promised you, Aguirre has just been released. No small effort has been needed, but I obviated all obstacles, saying that since Betancourt was in the insurrection it seemed to me that the issuance of rogatory letters became unnecessary.

I take pleasure in personally informing you of the above; also that Sanguily will be soon heard.

I avail, etc.,

ARSENIO MARTINEZ DE CAMPOS.

Mr. Williams to Mr. Adee.

No. 2588.]

UNITED STATES CONSULATE-GENERAL,
Habana, September 12, 1895.

SIR: I have the honor to submit a copy and translation herewith of a letter addressed to me in the Spanish language, under date of the 20th ultimo, by Mr. Julio Sanguily, in which he says that being sick, and under arrest without reason, as he affirmed, and desiring to be sent to the United States as soon as possible, as was done with Carrillo, Ruiz, and Vargas, he asked me to intercede with the Spanish authorities for his release.

I likewise accompany a copy of another letter, marked private, that he sent me in the English language with the one above mentioned, expressing the same desire.

I must here remark, in the order of narration, that Mr. Alfredo Zayas, the advocate of Mr. José Maria Timoteo Aguirre, called here on the morning of the same 21st ultimo, to say to me that Mrs. Aguirre had told him that she had heard of the intended application of Mr. Sanguily and desired to know if a like effort could not be made by me in favor of her husband. I responded that I was willing to try it, if so desired; and when at a later hour the son of Mr. Sanguily brought me his father's two letters referred to above, and Mr. Aguirre being confined in the same fortress near by Mr. Sanguily, and the son living with his father, I told him that on returning there, inasmuch as Mr. Zayas had expressed himself favorable to such an effort, to tell Mr. Aguirre if he would apply in a letter authorizing me for the purpose, the consent of his advocate, Mr. Zayas, being then presumably given, that I would couple my effort in favor of Sanguily with another for him.

Accordingly, I called at 4 p. m., on the same 21st ultimo, on the Acting Governor-General Arderius, and after a most cordial reception I informed him of the object of my visit, which was to solicit, informally, for Messrs. Sanguily and Aguirre, if it was within his attributions, the quashment of the proceedings against them and their departure to New York. General Arderius then answered me in the same sense that Gen. Martinez Campos had replied to me on a previous occasion of which I had availed myself incidentally to speak to him against the delay of the examination proceedings in these two cases, and in favor of their early termination and submissions to the higher or trial court—that is, he answered that the cases were then beyond the attributions of his military jurisdiction and were under the civil jurisdiction; but he added that he would speak to the prosecuting attorney of His Majesty, and to the chief justice of the superior court of Habana, to see if a similar solution could be given to these cases as was given to that of Carrillo and others, who had been expelled on the grounds of being dangerous aliens, instead of subjecting them to trial. In this visit I showed the original letter of Mr. Sanguily in the Spanish language to General Arderius as proof of his application to this office, which I assured him had been made with the knowledge and consent of Mr. Viondi, his advocate. The general then asked me for a copy of it, and I promised to send it to him just as soon as I returned to the office, and did so, accompanying it by an unofficial note, copy of which is herewith inclosed, together with another of Sanguily's said letter of the 20th ultimo.

On the following day, the 22d, I also sent him an unofficial note, with copy of Aguirre's letter.

In these efforts to accomplish the desires of Messrs. Sanguily and Aguirre, I visited General Arderius several times. In each visit something was gained in the direction of expediting the case of Aguirre, against whom the general told me there was only one charge, that of attempt of rebellion. He also told me that he would see if the delay in waiting for the answer to the commissions sent by the court for the taking of evidence in both cases in Spain could be obviated. But he added that he had understood there was a good deal more charged against Sanguily, and his case, therefore, did not offer the prospect of so speedy a termination as was observable with that of Aguirre.

At this stage of my efforts I received another letter from Mr. Sanguily, dated the 29th ultimo, in which he has not only attempted to shuffle on to me or on the authorities the origination of the suggestion of his solicitation, but he has also assumed the right to censure and instruct me.

The origin of his request to me is stated in the accompanying letter of Mr. Adolph Sanchez Dolz, the deputy consul-general, who communicated to me the request of Mr. Sanguily on delivering me his receipt for the \$150, subject of my dispatch No. 2570 of the 17th ultimo. The reputation of the deputy consul-general for veracity has never yet been questioned to my knowledge. And it was because of this unwarranted assumption of Mr. Sanguily that I telegraphed you on the 4th instant, referring to your telegraphic instruction of the day before, that—

Sanguily suggested and with the knowledge and consent of his advocate addressed a letter to this office soliciting its informal intervention for his release and embarkation, but I know of no petition preferred by him on suggestion of the authorities that it would secure his release. Will send copies of correspondence.

Apprehending from your words—

Of disregard of petition preferred by him on suggestion of authorities that it would secure his release—

that a misrepresentation had been made to the Department.

Notwithstanding, I have continued my efforts in favor of both these American citizens, the last time with Gen. Martinez Campos, who meanwhile had returned to Habana, as his accompanying private note of the 5th instant will show, informing me that Aguirre had been released and that Sanguily's case will be heard soon. I have since learned that the indictment against Sanguily of rebellion has been sent to the upper court for trial, and the remaining one, that of accomplice in the kidnaping of the sugar planter, Mr. Fernandez de Castro, is being expedited.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2588.—Translation.]

Mr. Julio Sanguily to Mr. Williams.

FORTRESS CABAÑA, August 20, 1895.

DEAR SIR: Sick and under arrest in this fortress without reason, I desire to be sent as soon as possible to the United States. My case is identical with those of Carrillo, Ruiz, and Vargas, and I only ask what was granted them.

In this sense I address you the present, begging you to obtain from the Spanish Government my transfer to the United States, and anticipating my thanks, I remain,
Yours, very truly,

JULIO SANGUILY.

[Inclosure 2 in No. 2588.—Private.]

Mr. Julio Sanguily to Mr. Williams.

LA CABAÑA, Tuesday, August 20, 1895.

MY DEAR FRIEND: If you can get me to go to the United States I'll be very much obliged to you. Also, if you can get me to go on Saturday next, because I want to go by Key West to wait for my family there that will go next week. I will leave Key West in the same steamer next week.

Yours, very truly,

J. SANGUILY.

[Inclosure 3 in No. 2588.—Translation.—Unofficial.]

*Mr. Williams to the Acting Governor-General of Cuba.*UNITED STATES CONSULATE-GENERAL,
Habana, August 21, 1895.

DEAR SIR AND DISTINGUISHED GENERAL: With reference to the conversation that I had the honor to hold with you this afternoon with respect to Mr. Julio Sanguily and Mr. Jose Ma. Timoteo Aguirre, I have now the pleasure to inclose a copy of a letter addressed to me yesterday from Fortress Cabana by the first named of these gentlemen soliciting me to intercede with the Government you so worthily represent to send him to the United States.

I am expecting a letter in the same sense from Mr. Aguirre, copy of which I will send you as soon as received.

I avail myself, etc.,

RAMON O. WILLIAMS.

[Inclosure 4 in No. 2588.—Translation.—Unofficial.]

*Mr. Williams to the Acting Governor-General of Cuba.*UNITED STATES CONSULATE-GENERAL,
Habana, August 22, 1895.

DEAR SIR AND DISTINGUISHED GENERAL: Referring to the letter I had the honor to address you yesterday respecting Mr. Julio Sanguily, I now have the pleasure to inclose you copy of the one that I received to-day from Mr. Jose Ma. Timoteo Aguirre soliciting me to intercede with you to send him to the United States.

Day after to-morrow it will be six months since Mr. Aguirre and Mr. Sanguily have been subjected to provisional imprisonment without the examining judge of the court of the Cerro district having yet sent the process in either case to the upper court for trial; to which I have to add that it is only five days ago that the judge refused the reading (vista) of the process by the advocates of the accused, who, moreover, inform me that the judge now proposes to send commissions for the taking of evidence in Spain, thus prolonging the delay, which circumstances I do not doubt the Government will take into consideration.

I avail myself, etc.,

RAMON O. WILLIAMS.

[Inclosure 5 in No. 2588.—Translation.]

*Mr. Aguirre to Mr. Williams.*FORTRESS CABANA, *August 22, 1895.*

DEAR SIR: As a consequence of my unjust detention in this fortress, I have had misfortunes and sickness in my family, and desiring to go to the United States at the earliest possible moment, as was granted to the citizens Carrillo, Ruiz, and Vargas, whose cases were identical with mine, I beg of you to intercede with the Government for my transfer to the United States, and anticipating my thanks, I remain,

Yours, etc.,

JOSÉ MA. T. AGUIRRE.

[Inclosure 6 in No. 2588.—Translation.]

*Mr. Julio Sanguily to Mr. Williams.*FORTRESS LA CABANA,
Thursday, August 29, 1895.

SIR: I do not know what passes. You sent to tell me about eight days ago, to me a prisoner in a fortress, that if I wished to recover my liberty, embarking, to write you a letter saying so. That is to say, you awakened in me the hope, and if this has not been with a serious purpose, a real cruelty has been practiced. Therefore, on your expressing yourself to me as you did, you must have had reasons for it; because you could not have forgotten my condition as prisoner when speaking to me of freedom.

It now turns out, according to what my lawyer writes me, that nothing has been done and things remain the same. Then why did you offer me my freedom and make me write you the letter I sent you?

And if it is the Government that has deceived you, why do you not exact of that Government the fulfillment of its promises? For it is certain that without a previous agreement with the Government you would never have taken upon yourself, from respect to my condition of prisoner, to offer me my freedom.

I regret to say that for the moment you appear weak to my eyes.

My present position and the hopes you inspired me with, and which I see vanished, authorize me to speak to you in this frank manner.

I believe my freedom to-day depends upon your energy, but as I can not influence you in any sense, I limit myself to saying that you offered me my freedom, that many days have passed since then, and that I still remain suffering a most unjust imprisonment.

But this does not hinder me from subscribing myself your most affectionate friend,

JULIO SANGUILY.

[Inclosure 7 in No. 2588.]

Mr. Dolz to Mr. Williams.

UNITED STATES CONSULATE-GENERAL,
Habana, August 30, 1895.

SIR: Referring to my visit on the 17th instant to Mr. Julio Sanguily, imprisoned at Fortress Cabana, to deliver him the proceeds of the draft of \$150 United States currency from Tampa, I have to say that, on returning to you the following Monday morning the receipt signed by him in triplicate, I told you that Mr. Sanguily had said to me that he was anxious to go at once to his home, New York, and led me to understand that he wanted you to intercede in his behalf with the Captain-General to have him sent to New York, as he had done with Carrillo, Vargas, and Ruiz, which I communicated to you on the said Monday morning.

You then told me to see him again, and say to him that if he would write you a letter to that effect, with the consent of his lawyer, you would try and see what you could do for him.

I am, etc.,

A. S. DOLZ,
Deputy Consul-General.

[Inclosure 8 in No. 2588.—Translation.—Personal.]

General Martínez de Campos to Mr. Williams.

THE GENERAL IN CHIEF OF THE ARMY OF OPERATIONS IN CUBA,
Habana, September 6, 1895.

MY DEAR SIR AND FRIEND: As I promised you, Aguirre has just been released; no small effort has been needed, but I obviated all obstacles, saying that since the Betancourt was in the insurrection it seemed to me that the issuance of rogatory letters became unnecessary.

I take pleasure in personally informing you of the above; also that Sanguily will be soon heard.

I avail, etc.,

ARSENIO MARTINEZ DE CAMPOS.

Mr. Rockhill to Mr. Williams.

No. 1152.]

DEPARTMENT OF STATE,
Washington, September 12, 1895.

SIR: In reply to your No. 2580 of the 27th ultimo, in regard to the cases of the American citizens Julio Sanguily and José Maria Timoteo Aguirre, has been unavoidably deferred by pressure of business, but the telegraphic instruction to you of September 3 will show that the Department has urgently endeavored to protect the interest of these persons.

I inclose herewith for your further information a copy of a letter from Mr. Manuel Sanguily, the brother of Julio, calling attention to the

facts already known to the Department and to yourself, which constitute the peculiar hardship of his case, and the Department's reply thereto.

In the light of the prompt acquittal by military process of Sanguily's supposed accomplice in the act of kidnaping of which they stand charged, the continual detention of Mr. Sanguily for the purpose of prosecuting that charge against him in the civil way is quite inexplicable, and appears to work a wrong of which this Government feels it may properly take notice. The conventional agreement between the United States and Spain entitles our citizens to be promptly heard upon any charge of wrongdoing and to be afforded instant and abundant opportunity to prove their innocence and obtain simple justice in the civil courts of Cuba, with every guaranty of defense known to Spanish procedure. Your own dispatches indicate that you appreciate this and are earnestly endeavoring to advance the interests of Mr. Sanguily, and it is not doubted you will continue to do so until a final and satisfactory result is reached.

I am, etc.,

W. W. ROCKHILL.

Mr. Uhl to Mr. Williams.

No. 1160.]

DEPARTMENT OF STATE,
Washington, September 28, 1895.

SIR: I have to acknowledge the receipt of your dispatch No. 2586, of the 11th instant, relative to the imprisonment of Sanguily and Aguirre, and referring to the letter from the Governor-General declining the right of exercise of diplomatic functions by consular officers.

I inclose copies of letters from the Department to the minister at Madrid and to the Spanish minister bearing upon this case.*

I am, etc.,

EDWIN F. UHL.

Mr. Williams to Mr. Uhl.

No. 2617.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 9, 1895.

SIR: I beg to inform you that I have continued my visits to the Governor-General when here, and when absent to the Acting Governor-General, to solicit the speedy presentation by the lower to the upper court of the case of Mr. Julio Sanguily, in which he is charged with having been an accomplice in the kidnaping last year of the sugar planter Mr. Fernandez de Castro by the bandit Manuel Garcia and released on a ransom, as publicly reported, of \$15,000, obtaining on each visit the assurance that they would use their endeavors with the judiciary for bringing the case to a speedy trial.

I understand that Mr. Viondi, the lawyer appointed by Mr. Sanguily, is giving constant attention to the defense.

I am, etc.,

RAMON O. WILLIAMS.

* Printed together with subsequent correspondence on the same subject under the title of "Right of consul-general to prevent remonstrances" in *Foreign Relations*, 1895, Part II, pp. 1209-1214.

Mr. Williams to Mr. Adee.

No. 2621.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 14, 1895.

SIR: With reference to the Department's instruction, No. 1148, of the 9th September last, and to my dispatch, No. 2588, of the 12th of same month, concerning the facts relating to the suggestion or message sent me by Mr. Julio Sanguily through Mr. Sanchez Dolz, the deputy consul-general, on the occasion of the delivery to him, with the consent of the Acting Governor-General, of the money sent him from Tampa, Fla., and mentioned in previous correspondence, I now beg to inclose for the information of the Department a copy of the letter addressed me on the 24th ultimo by the same Mr. Sanchez Dolz, saying—

That he never manifested to Mr. Julio Sanguily in my name that as the result of an interview held by me with General Arderius, Acting Governor-General, that if he wished to be released and sail to the United States, he should demand it by means of a petition.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 1 in No. 2621.]

Mr. Dolz to Mr. Williams.

UNITED STATES CONSULATE-GENERAL,
Habana, September 24, 1895.

SIR: Referring to Mr. Manuel Sanguily's letter of the 28th ultimo, addressed to the Hon. Alvey A. Adee, Acting Secretary of State, and accompanying the Department's instruction No. 1148 of the 9th instant, I have to say that I never manifested to Mr. Julio Sanguily, imprisoned at Fortress La Cabaña, in your name, "That as a result of an interview held by you with General Arderius, acting Governor-General, that if he wished to be released and sail to the United States he should demand it by means of a petition."

Very respectfully,

A. S. DOLZ.

Mr. Williams to Mr. Uhl.

No. 2627.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 19, 1895.

SIR: With reference to previous correspondence in relation to the arrest of Mr. Julio Sanguily, on the charge of rebellion, I beg to inform you that Mr. Viondi, his advocate, called at this office yesterday to tell me that the court had delivered him the proceedings in the case for his examination and for the preparation of his defense against the accusation formulated against Sanguily by the prosecuting attorney, which is based, as published by La Discusion of the 16th instant, upon the following counts:

1. That the accused was one of the most active promoters and instigators of the armed insurrection that broke out on the 24th of last February against the mother country for the purpose of declaring the independence of the island, he being designated to lead the insurrectional movement in the provinces of Habana, Matanzas, and Santa Clara, having issued, as leader and principal chief and as delegate of the revolutionary junta in New York, the appointments esteemed by him as contributing to that purpose, among them naming one Don José Yuocencio Aseny, colonel of the insurgent army.

2. Those acts constitute a crime of rebellion, as defined in article 237, number 1, and punishable under article 236 of the penal code.

F B 96—50

3. The accused is charged with direct participation in the promotion of the insurrectional movement.

4. There exist no mitigating circumstances worthy of appreciation.

5. The penalties proposed and solicited by the prosecuting attorney are those of imprisonment for life with chain, with the accessory ones of article 53 of the code, and payment of half the expenses of trial.

The proofs upon which the prosecuting attorney will base his action are: Documents, consisting of reports and depositions on folios 8 to 12 and 21 to 24; certificate on folio 24; letters on folios 36 and 46; expert examination on folio 88; letter on folio 94; official notes on folios 98 to 102; report on folio 107; official note on folio 115; letter of appointment on folio 236, and expert examination of same on folio 243.

I am, etc.,

RAMON O. WILLIAMS.

Mr. Williams to Mr. Uhl.

No. 2637.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 2, 1895.

SIR: I have the honor to inform you that according to the notices published in the newspapers of this city the oral and public trial of the American citizen Mr. Julio Sanguily, charged with the crime of rebellion, has been fixed for the 28th instant before the superior court of Habana, the Government being represented by its prosecuting attorney, Mr. Federico Enjuto, and the accused by Mr. Miguel F. Viondi, advocate, and Mr. Luis P. Valdes, solicitor.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Uhl.

No. 2640.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 4, 1895.

SIR: With reference to my dispatch No. 2588, of the 12th of last September, accompanying copy and translation of a letter addressed to me by Mr. Julio Sanguily on the 29th of August last, in which he undertook to censure me, I now inclose a copy and translation of another, dated the 2d instant, expressing regret for his misunderstanding.

I have now only to say that, while considering that Mr. Sanguily's letter was entirely out of place, I have not felt myself offended, criticism being free, nor have I ceased to do everything possible within the circle of consular functions in his behalf.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2640.—Translation.]

Mr. Sanguily to Mr. Williams.

LA CABAÑA, Saturday, November 2, 1895.

MY DEAR FRIEND: Having learned that you consider yourself offended by me, I deem it my duty to address you, as I understand that you have continued to attend to my affairs as efficiently as previous to this incident. I would have written to you before, apologizing, had I been informed of the case before.

I now recognize that there was a misinterpretation on my part regarding the message you sent me. I supposed wrongly, and upon seeing how the illusions which I conceived were vanishing, I took the pen and wrote my impressions of the moment. I never thought you would be offended, and, therefore, on being informed, as I stated above, of the impartial conduct observed by you even after the incident, I now address you, giving you all kind of satisfactions and subscribing myself, as ever, your affectionate friend,

J. SANGUILY.

Mr. Uhl to Mr. Williams.

No. 1177.]

NOVEMBER 9, 1895.

SIR: I have received your three dispatches, Nos. 2621, 2627, and 2637, of the respective dates of the 14th and 19th ultimo, and 2d instant, all relating to the case of Mr. Julio Sanguily.

From the second of these dispatches it appears that there has been delivered to Mr. Viondi, Mr. Sanguily's advocate, a copy of the proceedings in the case for his examination and for the preparation of a defense against the accusation brought. From your summary of the charges, as printed in the newspaper *La Discusion* of the 16th ultimo, it appears that the counts against the accused relate only to the charge of sedition and rebellion, and it would seem that the additional charge which has heretofore been kept prominently in front in the discussion of his case, namely, alleged participation in an act of kidnapping committed more than a year ago, is not embraced in the present indictment. Your report of this point is, however, awaited. In the communication addressed to this Department by Mr. Manuel Sanguily, brother of Julio, stress is laid upon this latter charge and upon the circumstance that the supposed partner of Mr. Sanguily in the alleged kidnapping, Don Gerardo Portela, was promptly acquitted several months ago by the military court which took cognizance of that charge, and it has been argued that proceedings against him on the ground of sedition were untenable. I inclose for your information copies of recent letters from Mr. Manuel Sanguily presenting this view of the case.

Your reports, however, of later date show the inapplicability in greater part of the arguments thus presented, and so far as the present state of the proceedings is disclosed this Department could not allege, as Mr. Manuel Sanguily asserts, that the charge of sedition is frivolous and merely vexatious. This Government has continuously asserted the right of Mr. Sanguily, as a citizen of the United States, to be tried on formulated charges by the ordinary resorts stipulated by the treaty of 1795 and by the protocol of 1877. This demand has been acceded to, and while the proceedings have been marked with what from our point of view appears to be extraordinary tardiness, I am not advised that there has been a tangible denial of justice in the case. It is due, however, to Mr. Sanguily himself, as well as to the Government which has necessarily intervened for his protection, that he should be accorded as speedy a trial as may be consistent with his own interests and with the necessary opportunity for full examination of the charges and preparation of his defense. You are presumed to be in consultation with Mr. Sanguily's advocate and should confer freely with him on this point, endeavoring to avoid as well unseemly haste to his disfavor as prolonged delays to his injury.

Your No. 2637 reports that the trial of Mr. Sanguily on the charge of rebellion is fixed for the 28th instant.

You should keep the Department advised at every stage of the proceedings, and you will direct your endeavors to secure for Mr. Sanguily the fullest opportunity of defense against the charges now formulated.

I am, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Williams.

No. 1180.]

NOVEMBER 14, 1895.

SIR: I inclose, with further reference to the case of Julio Sanguily, a copy of a letter addressed to the Department by his brother, Manuel Sanguily, in which he requests that you may be present at the trial which, as you report, has been set down for the 28th of this month.

You will accordingly attend the public proceedings as a spectator and make concise but sufficient report thereof to this Department.

I am, etc.,

EDWIN F. UHL,
Assistant Secretary.

Mr. Williams to Mr. Uhl.

No. 2659.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 21, 1895.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 1180, of the 14th instant, directing me to attend the trial of Mr. Julio Sanguily to take place on the 28th instant, as a spectator, and to make a concise but sufficient report thereof to the Department, and to say that this instruction will be complied with.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Uhl.

No. 2661.]

UNITED STATES CONSULATE-GENERAL,
Habana, November 22, 1895.

SIR: Mr. Miguel Viondi, advocate of Mr. Julio Sanguily, asks me for a copy of the communication dated September 6 last from General Campos in relation to the charge of kidnaping against his client, and which I had the honor to inclose in my dispatch No. 2586 of the 11th of said month. As the General mentions therein that Portela was released because of his innocence having been proved, and the charge against Sanguily being the same as that of the former, Mr. Viondi deems it convenient to acquaint the judge in the case with this fact in order that he may appreciate the opinion of the General Government in the matter and for the interest of his defendant.

I therefore beg permission of the Department to comply with Mr. Viondi's request.

I am, etc.,

RAMON O. WILLIAMS.

[Telegram.]

*Mr. Williams to Mr. Uhl.*HABANA, *November 29, 1895.*

Trial of Sanguily commenced yesterday noon; adjourned at 5 o'clock; resumed to-day noon and finished at 3 o'clock. I attended as spectator in compliance with instructions of Department. His advocate, Viondi, has made a magnificent defense. Verdict not rendered yet.

[Telegram.]

*Mr. Williams to Mr. Uhl.*HABANA, *December 3, 1895.*

Superior court of Habana sentenced Sanguily yesterday to imprisonment for life.

Mr. Williams to Mr. Uhl.

No. 2677.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 7, 1895.

SIR: I have the honor to report that in accordance with the Department's instruction No. 1180 of the 14th ultimo I attended as a spectator the trial of the American citizen Mr. Julio Sanguily, which took place in this city on the 28th and 29th ultimo before the superior court of the province of Habana.

The court opened at 12 o'clock noon of the 28th ultimo, and on the entrance and seating of the accused the prosecuting attorney addressed his charges against him to the five sitting judges, the chief justice presiding, and on conclusion asked the court to declare Sanguily guilty, with sentence of imprisonment for life with chain. The charges summed up by the prosecutor and developed at the trial against Sanguily are in nowise materially different in essence from those transmitted to the Department in my dispatch No. 2627 of the 19th of October last.

The advocate for the prisoner, Mr. Miguel F. Viondi, followed in an earnest and eloquent defense, asking the court to declare the innocence and release of Sanguily on the grounds:

(1) The absence of evidence to criminate.

(2) The present trial being a continuation of the court-martial proceedings commenced on the 24th of February last, the day of the arrest of Sanguily, and against which this consulate-general protested by order of the Department before the Governor-General on the 25th of April last because said military proceedings were in violation of the protocol of the 12th of January, 1877.

(3) Claiming that the case of Sanguily comes under the proclamation of the Governor-General published in the Gazette of February 27th of the present year, granting pardon to the rebels presenting themselves to the nearest municipal authorities, a translation of which proclamation I sent to the Department with my dispatch No. 2428, of that same date.

I understand that Mr. Viondi has determined to carry the case on appeal to the supreme court of Spain at Madrid. Accompanying herewith are two copies of the *Diario de la Marina* of the 29th and 30th of November and 3d instant, also two copies of the *Discusion* published in supplement, both newspapers giving full report of the proceedings as they actually occurred during the trials.

The current business of this office requiring my constant attention prevents me from devoting time to the translation of either of these reports.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[From the *Diario de la Marina*, Habana, Friday, November 29, 1895.]

THE SANGUILY CASE—PUBLIC EXAMINATION OF WITNESSES.

According to our previous announcement, the public examination of witnesses in the case of the Government against Don Julio Sangui y Garit, charged with the crime of rebellion, was commenced yesterday, the said case having previously been before the court of first instance.

At an early hour in the morning an immense crowd occupied the galleries of the court room, and it increased until it was found necessary to keep it back by force. At half-past 10 Mr. Sangui arrived, under the escort of a picket of custodians of public order. He remained in the room set apart for prisoners until half-past 12, when he was summoned to sit on the bench in the court room which is occupied by accused persons. Don Miguel F. Viondi, his counsel, and Attorney Luis P. Valdés were then likewise summoned.

The gentlemen of the press, who occupied their respective places, were then summoned by the doorkeeper; and here an unfortunate incident occurred. "All who thought proper to do so sat down at the table intended for the 'fourth power of the State,' which is certainly small enough, and neither the doorkeepers nor the policemen required anyone to present a permit to occupy that place, the result of which was that the shorthand reporter of the *Diario de la Marina*, our collaborator, Mr. Vera y Gonzalez, was obliged to work in the midst of the public throughout the session. Consequently our report can not be quite as extensive as might be desirable.

In the locality occupied by the civil court, the third section of the criminal court sat, the court consisting of the gentlemen to whom we referred yesterday. Among those present were the United States consul and many magistrates and lawyers. Quite a number of prominent ladies were likewise present.

DOCUMENTARY EVIDENCE.

Don Manuel Ramón Hernández, one of the court officers, acted as secretary and read the argument prepared by the Government attorney, and the defense to which we referred in our edition of yesterday evening, and the documentary evidence offered by both parties and accepted by the court.

CONFESSION OF THE PRISONER.

Don Julio Sangui y Garit, the prisoner, whose attitude was one of perfect serenity, said, in reply to the usual preliminary questions, that he was a native of Habana, 46 years of age, married, and the father of a family; by occupation a clerk, and that he had been a citizen of the United States since the year 1889. He was arrested on the 24th of February of the present year, between 7 and a quarter past 7 in the morning.

In reply to a question of the Government attorney, he said that, although it was true that on previous occasions—that is to say, before the rising took place—he had spoken of political matters with various persons, and had received, among other visits, that of Mr. Lopez Coloma, with whom he had spoken somewhat of Cuban affairs, he was in no way concerned in the uprising, and had had nothing whatever to do with it.

GOVERNMENT ATTORNEY. Could you not state anything more? Could you not tell what sort of a reference you made to Cuban affairs, and whether you were requested to head the movement in Habana, Matanzas, and Santa Clara?

PRISONER. I was, indeed, invited to head the movement, if I am not mistaken, but that was several days before, I do not remember exactly when.

GOVERNMENT ATTORNEY. What sort of a movement was it?

ANSWER. The revolutionary movement which began on the 24th of February, and which still continues.

Q. Did Mr. Lopez Coloma speak to you in his own name, or in that of other persons?—A. He spoke to me both in his own name and in that of other persons.

Q. And what did you say?—A. That I could not do it.

Q. When did you make your first statement before the military court?—A. On the 23d of February, at 11 p. m.

Q. What statement did you make with regard to the movement?—A. I told what I knew.

Q. But did you not state that, owing to its political significance, you might be compelled to take part in it?—A. I do not remember what I said. I asserted that there was no movement.

Sanguily's counsel here objected to these questions by the Government attorney, and referred to the statements already made by the prisoner.

As the presiding judge considered that the questions of the Government attorney were pertinent, the prisoner's counsel declared that he protested, notwithstanding that the presiding judge stated that a protest is proper only when the court refuses to permit a question, and the protest is put on record in order that an appeal for disregard of forms may subsequently be taken, which in the present case is of no practical importance.

The Government attorney continued to question the prisoner as to whether he had addressed letters relative to the movement to various persons and issued appointments as officers, among them an appointment as colonel. The prisoner said that he had not.

Q. (By the GOVERNMENT ATTORNEY.) Do you not remember that you attended a number of meetings on a sugar estate at which these matters were discussed?—A. I do not remember. I had nothing to do with the movement; I have kept entirely aloof from it.

Q. Were you in New York in the year 1893?—A. I have not been there since 1878.

Q. Have you no relations there with persons who have been concerned in these matters?—A. I have, it is true, some friends to whom I was in the habit of writing.

Q. Have those letters anything to do with the movement?—A. Nothing whatever.

The prisoner was then asked whether he recognized some fragments of a letter which was on file as being in his handwriting. After carefully examining them, he said that he did not.

Q. Is the handwriting like yours?—A. I think it is different.

Q. Do you know the writing?—A. (Again examining it carefully.) I do not know it.

Q. Do you recognize that letter on file among the records of this court as having been written by you [referring to a letter addressed by the prisoner to Dr. Betancourt]?—A. (Examining it with care.) The writing looks like mine, but I do not dare to state positively that it is, for various reasons which I can not state now. It looks like my handwriting, but I do not feel certain that it is.

THE PRESIDING JUDGE. Do you know Don José Inocencio Azcuy?—A. No.

Q. Have you never had any relations with him?—A. No.

Q. Have you never addressed a letter to him?—A. I have not.

The prisoner's counsel stated that he did not desire to address any questions to Mr. Sanguily, and the latter took his seat on the prisoner's bench.

THE EXPERTS.

No one but Mr. Biosca appeared for the prosecution. Mr. Biosca compared the signatures of the three letters of the prisoner which were in the possession of the court; he considered them similar, and thought they had been written by the same hand, although he could not positively state that they had.

Messrs. Antonio Pérez Madueño and Pedro Simon Álvarez, the experts for the defense, claimed that the fragments of the letter in the possession of the court, which the Government attorney thought to have been written by Mr. Sanguily, were of no importance whatever, for the reason that the document was wholly illegible.

The Government attorney questioned them on each particular word in the fragment of a letter which apparently contained the appointment of Mr. Azcuy as an insurgent colonel. The following words were found: Colonel in the army * * * citizen * * * fully author * * * colonel of our * * * you are au * * * appointment * * * cios * * * organize forces * * * which is hoped by yours truly * * * Julio Sanguily (flourish).

The experts insisted that it was quite impossible for them to make any sense of the detached words of the document, and after several questions by the prisoner's counsel, they withdrew.

DON ANTONIO LOPEZ COLOMA.

In reply to the usual preliminary questions, he stated that he was 25 years of age, married, an ex-railroad employee, and that he was connected with the prisoner neither by blood relationship nor by friendship.

He said that he was arrested in the month of March last for having placed himself at the head of an insurgent band at Ibarra on the 24th of February. He declared that he had not instigated that movement, and said that he took the place at the head of his men under compulsion, designing to act as an autonomist, and not as a secessionist.

Q. (By the GOVERNMENT ATTORNEY.) Had you previously visited Habana for the purpose of proposing to Sanguily to assist you?

WITNESS. I had not.

Q. Did you bring oral or written instructions from Dr. Betancourt, which you were to communicate to Juan Gualberto Gómez?—A. I came to receive orders from Sanguily, Aguirre, and Gómez, but I only saw Gómez, and he merely gave me a letter.

Q. Did you speak to Gómez concerning the uprising?—A. No, sir.

Q. Or with Sanguily?—A. Nor with Sanguily, either.

At the request of the Government attorney, the clerk of the court read the statement made by the witness at San Severino castle at Matanzas. In that statement Coloma said that Don Pedro Betancourt had commissioned him to call upon Sanguily, Juan Gualberto Gómez, and Aguirre at Habana, with a view to raising the cry of "Hurrah for reform!" The witness was then asked how many interviews he had said at San Severino that he had had with Sanguily and Aguirre. He answered that he had there stated that he had had none, although he was acquainted with those gentlemen.

Q. How was it that you did not speak to Sanguily and Aguirre?—A. Because it was believed at Matanzas that Messrs. Sanguily and Aguirre were opposed to the movement. I consequently saw no one but Juan Gualberto Gómez.

Q. (By PRISONER'S COUNSEL.) Whom did you recognize as leader?—A. Betancourt.

Q. (By the GOVERNMENT ATTORNEY.) Had you no knowledge that Sanguily was the leader of the movement in Habana?—A. On the contrary, I had heard that Sanguily disapproved the movement, and as Betancourt wished to make me believe that Sanguily was with the movement, he spoke to me in rather vague terms.

Q. Did Betancourt tell you that Sanguily would place himself at the head of the Matanzas forces?—A. He had told me that he expected Sanguily by the 25th.

Q. (By the PRISONER'S COUNSEL.) Did you believe those statements of Betancourt?—A. I did not think that Sanguily would join the insurrection.

Q. If Sanguily had gone to join the insurrection, on what day was he to do so?—A. On the 21st.

After a document belonging to the records of the court had been shown to the witness, and after he had ratified all the statements which he had made, he retired.

A FEMALE WITNESS.

The next witness was a colored woman employed on the estate Portela, in Aguacate, where the prisoner Sanguily used to go on hunting trips.

PRESIDING JUDGE. Do you swear, before God, that you will tell the truth?

The witness did not answer, although the question was repeated.

The JUDGE. Do you not hear?

WITNESS (terribly frightened). Sir!

She was unable to answer the usual preliminary questions that were addressed to her, and afterwards answered in monosyllables. It was finally elicited that she was an unmarried woman, employed in agricultural labor.

Q. (By the PRESIDING JUDGE.) Did you reside on the estate Portella, in Aguacate, at the close of last year?—A. Yes, sir.

Q. (By the GOVERNMENT ATTORNEY.) Did not Mr. Sanguily occupy a room there, the furniture of which was sold?—A. Yes, sir.

Q. Was there a gun there?—A. Yes, sir.

Q. Do you remember whether the civil guard came there because the furniture was to be sold?—A. Yes, sir.

Q. Was there a closet in that room?—A. Yes, sir.

Q. Who kept the things there?—A. I don't know.

Q. Did you see when the civil guard took some papers?—A. No, sir.

Q. (By the PRESIDING JUDGE.) Do you remember what person spoke to Don Julio Sanguily?—A. I do not remember.

Q. (COUNSEL FOR THE DEFENSE.) When the civil guard came to examine the closet, where were you?—A. At home.

Q. Did you live in the house occupied by the family?—A. No, sir.

Q. And did the civil guard apply to you?—A. Yes, sir.

Q. And did those gentlemen come to see the furniture?—A. Yes, sir.
 Q. Did they buy anything?—A. Yes, sir.
 Q. Did the commander of the civil guard come there?—A. No, sir.
 Q. Did they take leave of you?—A. No, sir.
 Q. Did you not see what they took away?—A. I did not notice.
 The witness then retired.

INSPECTOR TRUJILLO.

After answering the usual preliminary questions, he said that he was acquainted with Sanguily, but that he was neither his friend nor his enemy.

Being questioned with respect to the arrest of Mr. Azcuy, he said that when he arrested him on his landing from a steamer from Key West, he untied his cravat, in which he found a paper, which Azcuy snatched out of his hand, put it in his mouth and chewed it up, so that he was able to secure a part of it with the greatest difficulty, and to take another fragment out of Azcuy's mouth.

The fragments of the letter having been shown to him, he said that they appeared to be the same, and withdrew.

DON JOSÉ PAGLIERY.

Mr. Pagliery appeared in court in citizen's clothes, and answered the usual preliminary questions by saying that he was 45 years of age, and a colonel in the civil guard. The PRESIDING JUDGE. Do you know Mr. Julio Sanguily?—A. I do.

Q. Are you a friend of his?—A. No; but I have had some intercourse with him.

In reply to a question by the Government attorney, he said that Azcuy had never told him who had given him the papers which he carried in his cravat, or who had signed them.

His first statement was read, from which it appeared that he had taken from Azcuy a folded letter which was hidden in his cravat, and that when Azcuy saw that the letter was discovered he tore it in two pieces, which he put into his mouth, but that the witness had succeeded in securing some fragments of chewed paper which, among other things, said: "Habana * * * Mr. José Azcuy * * * by our author * * * to organize forces." It bore Sanguily's signature, and when Azcuy was asked who had given him that paper, he said that it had been given him by his nephew, Dionisio Azcuy.

The JUDGE. Were you chief of police on the 24th of February?—A. Yes, sir.

Q. Were you the person who arrested Don Julio Sanguily?—A. Yes; by order of the Governor-General.

Q. Had you any knowledge that he was conspiring with Betancourt and López Coloma at Matanzas?—A. I know, in a general way, that an effort was being made in behalf of secession; everybody knew that.

Q. Did you know that Sanguily was going to place himself at the head of a band from Matanzas, Ibarra, or any other place?—A. I did not know anything about it; I only knew that there was a conspiracy on foot.

Q. (By the PRISONER'S COUNSEL.) Do you remember that, on the 28th day of June last, you sent a communication to the court, telling what you knew with regard to Sanguily's antecedents, and said, "A record of all this must be in the Captain-General's office, since the Captain-General was informed of the facts; I have no information except common reports which I am unable to prove"?—

The witness answered in the affirmative, and withdrew.

DON JOSÉ INOCENCIO AZCUY.

This gentleman was unable to appear in court, being ill in a hospital. It was at first decided to visit him at the hospital, but finally, the counsel for the defense and the Government attorney agreeing, it was concluded to do without his testimony; instead of which his first statement was read, from which it appeared that Mr. Azcuy was 56 years of age, married, and an owner of country real estate.

Being asked as to the appointment of a colonel which was taken from him by Inspector Trujillo (said paper being concealed in his cravat) and whether the injury done to the paper was done by him, he said that on his landing in this port Inspector Trujillo took the paper in question from him; he (witness) was able to keep a part of the paper. As to the purport of the document, he said that as he was the lessee of the estate Rosario at Linares the appointment of an insurgent colonel, signed by Sanguily, was sent to him, but he did not know whether the signature was genuine or not, as it was sent to him by the revolutionary junta of New York on the 31st of December, 1894, and was delivered to him by Dionisio Azcuy, his nephew. He conferred, he said, at Tampa with Mr. Enrique Collazo and entered that whirlpool of secession for the sole purpose of being able to see his son, but that he never could be an insurgent, and that Enrique Collazo confirmed to him the appointment of a colonel.

This declaration was read after those from which we give extracts below; we have, however, preferred to place it here, because it is in the order in which the witnesses were called.

DON RAMÓN SANCHEZ.

Mr. Sanchez answered the usual preliminary questions by stating, among other things, that he was the proprietor of the pawnbroker's shop known as Luz, on the corner of Compostela street. He said that he was a friend of Sanguily.

THE PRESIDING JUDGE. Did Mr. Sanguily pawn a revolver and a machete in your establishment?—A. I have a kind of an idea that he did, but I can not be positive about it, nor do I remember the date.

Q. About how long ago was it?—A. About a year, a year and a half, or two years. Sanguily has done business with me at various times.

Q. When the preliminary examination was held, did you remember when Sanguily pawned those articles?—A. Yes, I did remember then, because the date was not so remote.

Q. (The GOVERNMENT ATTORNEY.) Did you say in your statement that the last transaction had taken place eight months previously, and that Sanguily had pawned a machete and a revolver? Do you remember whether such was the fact.—A. Yes; I do remember it now.

Q. So that in December—that is to say, eight months before your declaration—Sanguily pawned a machete and a revolver at your shop?—A. He did.

Q. Do you remember that you said, in the month of October, that Sanguily had pawned those articles?—A. Yes, sir.

THE PRISONER'S COUNSEL. You probably remember the day when the insurrectionary movement began. Do you remember whether Sanguily had redeemed the machete and the revolver at that time?—A. I can not say positively.

Q. But do you not remember that you sold those articles at public auction?—A. Yes.

COUNSEL. Then it is perfectly evident that he did not redeem them.

The witness then retired.

In reply to a question by the presiding judge, Sanguily stated that he did not remember the precise date when he pawned the machete and the revolver, although he knew that he did not redeem them.

Don Francisco Regueira, one of those concerned in the uprising at Ibarra, was next summoned to appear as a witness. He did not appear, and it was decided to do without his testimony.

DON LUIS LORET Y MOLA.

This gentleman is a native of Puerto Principe, 21 years of age, unmarried, and a student. He was tried for having taken part in the present uprising, and was pardoned.

COUNSEL FOR THE DEFENSE. Do you know whether, at the time of the uprising of February 24, Sanguily was in any way concerned in it at Ibarra?—A. I know nothing about it.

Q. Who was your leader?—A. Nobody, except one who was at our head, and that was Coloma.

Q. How many of you were there?—A. Fourteen.

Q. Do you not know whether Sanguily was to take command of the party?—A. I know nothing at all about it.

Don Paulino Alfonso was then summoned, but did not appear.

DON GERARDO PORTELA.

This gentleman is a native of Habana, 33 years of age, a lawyer, and was tried, together with Sanguily, in the case of Fernández de Castro.

In reply to a question of the defense, he said that he was tried for kidnaping Fernández de Castro, together with Sanguily.

COUNSEL FOR THE DEFENSE. Were you tried on the same charges, or on different ones?—A. On the same charges.

Q. For the very same reasons?—A. The very same.

Q. Who tried you?—A. The military authorities. There were many persons tried in that case.

Q. Were you released?—A. Yes, sir.

The witness then withdrew. Mr. Azcuy's statement was then read, and this ended the evidence. The Government attorney and the prisoner's counsel were then told that they were at liberty to speak. In our next edition we will give reports of the arguments of both these gentlemen.

[Translation of the arguments of the prosecution and the defense in the trial of Julio Sanguily Habana, 1895.]

[From *La Discusion*, Suplemento, December 1, 1895.]

THE SANGUILY CASE—ORAL PROCEEDINGS.

SPEECH OF THE PROSECUTOR.

GENTLEMEN OF THE CHAMBER: The crime of rebellion charged in this case is certainly one of the gravest of all those defined by our code; so much so that the penalty of imprisonment for life, attached to it by article 238, is inflicted in only very rare instances, among others, on those committing treason by inducing a foreign power to declare war against Spain, if it declares war; on those who surrender a fortress or a vessel of war to the enemy; on a minister who countersigns a decree alienating a portion of the Spanish territory; on anyone committing parricide, and on anyone committing a robbery resulting in murder.

It is natural that this should be the case, for those acts are of the same gravity as that of persuading and inducing a few malcontents, a class that is never wanting in any country, to rise against our mother country in order to tear from her this cherished piece of Spanish earth, to which absolutely no one except Spain has any right, in view of her having discovered, peopled, and civilized it; in view of the treasures which she has spent here to beautify it; in view of the efforts which she has made and is still making to the end that all the rights, liberties, and benefits enjoyed in the peninsula may be enjoyed in this country, and in view of the blood so lavishly shed by her sons to retain it.

Still, those who commit any of the former offenses know the consequences of the crime which they are perpetrating; but those who promote a rebellion like that which is now desolating this land know where their crime begins, but they ignore its scope and its consequences.

Having laid down these views with regard to the gravity of the offense charged, I proceed to discuss, with entire impartiality and without any heat of passion, the evidence existing in documents and that which has been adduced in this case.

I have already stated that the crime charged is that of rebellion, defined and punished by article 238, taken in connection with the first paragraph of article 237, of the Criminal Code.

Now, the public ministry, which I have the undeserved honor to represent on this occasion, charges the prisoner, Don Julio Sanguily y Garit, with being the author of such crime of rebellion, and bases its accusation upon most solid oral, documentary, expert, and even confessional evidence; such evidence as removes all kind of doubt as to his direct participation in the same in the character of instigator, as required by the said article 238.

In this case, that article applies fully to Don Julio Sanguily, because it inflicts the same penalty on any person instigating and inducing rebels to maintain rebellion as on those waging it and on the principal chiefs of the rebellion.

Those articles read as follows (he reads them):

I now proceed to show that Don Julio Sanguily induced the rebels to wage rebellion, and that he was, besides, one of its principal chiefs, and that he acted as such.

Let us examine his declarations in the preliminary proceedings and his confession in this proceeding.

The accused, as is natural, denied all the charges made against him; but nevertheless he confessed that López Coloma came to see him before rising with his party in Ibarra, to induce him to join him in the rising, which he says that he refused to do, and that he endeavored, on the contrary, to dissuade him from it.

Does the court believe that such plans are communicated to persons where there is not absolute certainty that they are initiated into the secret, that they favor the movement, and that they assist it with all their ability?

But this is not all. He confesses besides, in a declaration made by him on the day on which he was arrested, and which he subsequently ratified before the judge of El Cerro, and afterwards in this proceeding, that, "in view of his political standing"—let the court note this, these are his very words—"he is certain that if any important project had been concerted he would have known it, and that it is not true that any movement was agreed upon for February 24."

He said this on that very 24th February, and the inferences are obvious. His political affiliations were Separatist, and he was in constant relations and intercourse with the principal leaders of that party, because it was only by this means that he could be sure that any important project would have been communicated to him, since that is done only with leaders on whom absolute reliance is placed.

We all know well that such a project existed, that it was serious and very serious, and that its execution began on that very 24th February; this we all know, because we are seeing it, and this poor land and the mother country are seeing it and feeling its effects; and if there is still any doubt of it, ask the army, that martyr to duty, which has already shed so much of its blood.

The prisoner himself, therefore, clearly, though involuntarily, confesses in that declaration his direct participation in the Separatist movement and his character as one of the principal leaders, because only such communicate to each other the preliminary steps which accompany every rebellion, what has been decided with regard to the day of the rising, and the plans agreed upon.

Moreover, all this is corroborated by the declaration of López Coloma, who stated, at the time of his arrest, that he came to Habana a few days before the rising by order of Dr. Betancourt, of Mantanzas, to request instructions and orders of Don Julio Sanguily and Don Juan Gualberto Gómez as to whether the cry of independence should be raised or not, and that it was agreed that the said cry should be raised immediately.

It is true that he immediately amended that declaration by saying that he came to an understanding with Betancourt and the latter with Gualberto Gomez, and that what Betancourt told him was to see Gualberto Gomez afterwards, in order to receive his orders and those of Sanguily; but that he expressed himself vaguely on this subject, and that he consequently had no interview with him (Sanguily).

Let it be noticed that this interview, of which Lopez Coloma tries to clear Don Julio Sanguily, is confessed by the latter, who asserts that the former saw him and invited him to join him in the rising.

The court will now, in its discretion, decide which of Lopez Coloma's declarations deserves the most credit and the most belief—the first, made at the time of his arrest, and when he had not yet been tortured, or the subsequent ones, including those in this proceeding, in which he did not and could not explain these contradictions satisfactorily.

That witness adds, moreover, that he knew through Betancourt that Don Julio Sanguily was to place himself at the head of the movement.

And I here spare the court all that I might say concerning the weight of the evidence adduced in the preliminary proceedings when it conflicts with that furnished by the testimony in this proceeding; not only because I am perfectly well aware of the wisdom of all its members, but because I am also aware of the brilliant talents which distinguish the prisoner's counsel, and I am sure that in his argument he will not make use of those commonplaces which the prosecuting attorney employs only in the preliminary proceedings as if the old procedure was still in force; that the amendment of the criminal law and the establishment of oral and public trial in this island has consequently been of no avail to the counsel in this case, etc. No; Don Julio Sanguily's counsel knows perfectly well that the preliminary proceedings, cited by the parties in this case, have their real weight, provided the evidence adduced in them is not overthrown by that produced in this proceeding, and that such rebuttal must be effected by convincing the court that the former evidence was false and that the testimony adduced in this proceeding is true.

The court, then, with the data furnished it, and with the evidence produced by the parties to this case, will form its opinion, and will embody that opinion, in whatever sense it may be, in its decision.

Let us see now what the authorities in existence here at that date tell us as to the prisoner's machinations, before he was arrested on the 24th of February, to make proselytes to his views, and to procure the rising against the mother country for the purpose of achieving the independence of this island.

The civil governor, in his report on page 10, dated February 27, 1895, states "that he proceeded to arrest Sanguily by order of the Governor-General, who knew from private information and from police reports, that he was conspiring, and that it was notorious that he was designated to place himself at the head of the movement."

And that this was true is corroborated by the statement of his excellency the Governor-General, folio 22, second page, dated March 24, 1895, in which he uses these words: "With regard to Don Julio Sanguily, it is known to me through confidential information, both from this capital and from abroad, that he was one of the instigators of the Separatist rebellion, and that it was said that he was to place himself at the head of the insurrectional movement in the provinces of Habana, Matanzas, and Santa Clara; that his whole conduct, which was closely watched by the police, also proves this; and that it was certain that he maintained relations and correspondence with the revolutionary junta at New York, with the workmen (laborantes) abroad, and with the Separatist committees of the provinces of the Island of Cuba."

It is evident from this that Don Julio Sanguily could well assert that "he was sure that any important plan agreed upon would be known to him."

His excellency the Governor-General adds in this report: "That he likewise knew

the transactions in which Sanguily had participated for the acquisition of munitions of war; but that, as he obtained all this information in confidence, he refrained for the time being from divulging it, intending to do so if it should be necessary to prove the facts, and awaiting the time when his assistance should be requested by the judicial authorities, in order that these facts might appear in full at the trial."

The Government had no proofs of these last facts, perhaps because they were communicated in confidence to His Excellency the Governor-General, and the prosecuting attorney would, at the proper time, have requested the court to ask General Calleja for the assistance which he had offered the judicial authorities in facilitating the proof of them, but that the waiting until he forwarded the documents from the Peninsula, where it is well known that he is, would have too greatly prolonged the preliminary stage of this trial; and besides, because the remaining evidence is so strong that he thought that he could dispense with them without endangering the success of the task which his office imposes upon him.

Besides, the witnesses who testified to this effect are of the highest respectability, and their simple assertions must certainly have weight in the opinion of the court, as they had in that of my office, since falsehood or exaggeration is not even to be suspected in such high and respected personages.

Moreover, these assertions are corroborated by other documents, and, among them, by several letters which have been found and of which I proceed to speak.

I shall begin with those which were found by the civil guard at the Portela works among other papers in a cupboard in a room which was frequently occupied by Don Julio Sanguily, and in which the rifle, admitted by the prisoner to be his, was seized.

The prisoner does not recognize that letter, nor does he know who wrote it nor to whom it was addressed. It is evident that it was not written by him on comparing the writing with that which is known to be the prisoner's; but it does not appear so clear to the prosecuting ministry that it was not addressed to him, as it was found in a room which he frequently occupied and with other articles used by him and belonging to him, and among other papers among which was found no less than a diary of his, as stated by the civil guard in the report on folios 98-101, which the Sala permitted this ministry (the prosecuting attorney) to offer as a part of its documentary evidence.

Let us see now the contents of this letter which appears on folio 94, and which is dated December 8, 1893. (He reads it and we extract the following paragraph from its contents: "No one more than you, in view of your respectable surroundings, the credit which your name imparts to the movement, your old and 'well-established reputation as a revolutionist' and a soldier, the position which you have always occupied among the members of both parties, 'is called' to lead a regular and important movement from the very start.")

Another letter figures among the documents on folio 45. This letter was turned over to the military court which first heard this case; it was signed with the unonym "A Resident," and the prisoner has recognized it as written and signed by him, both in the preliminary proceedings and in this.

This and the signatures written by the prisoner at the foot of his declarations in the preliminary proceedings, have served as a means of comparison in the expert examination of other letters seized, and, although its contents are of no importance in themselves, I shall read it in order that its style may be compared with that of those which still remain to be examined, and that it may be seen that it is exactly the same.

"Thursday—Cerro—February 14, 1895."

In this letter we find the following sentence: "I have something of interest to communicate to you on this subject."

Now, compare the heading of this letter with that of the letter which appears at folios 36 and 37, which was, beyond any doubt, written by Don Julio Sanguily, although it is signed "Gener," and it will be seen that it is the same; it is as follows: "Saturday—Cerro—February, 1895." [He reads it.]

In this letter, as the court has heard, the person signing it "Gener" says that he has pawned his revolver and his machete, and the court will remember that the prisoner has admitted having been reduced to such straits, which, moreover, has been proved by the statement of Don Ramón Sánchez, the owner of the pawnbroker's establishment at the corner of Compostela and Luz streets, where the pawning took place.

There is another reason for asserting that this letter was written by the prisoner and not by some other person who imitated his handwriting exactly, and that is, that if any one had done this in order to implicate the prisoner by means of this letter he would, in that case, have signed it "Sanguily," the name of the person whom he was trying to implicate and whose handwriting he was imitating, and not with a fictitious signature used by the person to whom that handwriting really belongs, only

when he is attempting to conceal his identity from those who do not know him, in case the letter should be lost.

Another document, and certainly the most important one, remains to be examined before we proceed to consider what the experts have said about this letter and that document.

This document is an appointment as colonel in the insurgent army, issued by Don Julio Sanguily in this city, who has competent authority, according to the said appointment, in favor of Don José Inocencio Azcuy, to organize forces in Vuelta Abajo, and to issue in his turn such appointments as he may think necessary for the purposes of the rebellion, in favor of such persons as may merit them by their services.

Let us see first of all how this document was found. Azcuy was arrested by the police when he landed here on his arrival from the United States. He was carefully searched, and this appointment was found in the knot of the cravat which he was wearing.

When Azcuy saw it in the possession of the police, he attempted to snatch it from the hands of Inspector Trujillo in order to swallow it, but he only partially succeeded, the fragment which appears at folio 236, and by which an exact knowledge of its contents is obtained, having been saved.

Azcuy himself explained in all his declarations how and when it came into his possession, stating that his nephew, Don Nemesio Azcuy, had given it to him in the "El Rosario" house at Viñales, in January or February of this year, according to the number of months which in his declarations he states as having elapsed, and added that it was signed by Don Julio Sanguily, though he did not see him sign it, and that his nephew told him that it was sent to him by the Revolutionary Junta at New York.

Don Julio Sanguily does not acknowledge the letter signed "Gener" nor this document, though he admits that the handwriting of both resembles his own.

Let us now see the text of this document. It reads as follows:

"Sr. D. J. Azu— Coronel del Ejercito, Ciudadano, competentemente autor— Coronel de nuestro— sub— y— Queda Vd. actor z— conferir nombran— todas que por mi merit— cios los merezca— Organizará, fuerzas que— to le irán á u— instrucciones— sobre la manera ó— ganiz— los y puntos que ha de ocupar— confiamos en su celo— tico espera— zo affmo., su y P. J. Sanguily."

The little that is wanting does not prevent nor even render difficult the understanding what the document means as clearly as if it was entire, especially in the signature, to which only the "a" in Sanguily is wanting, the rubric (flourish) being seen distinctly.

This document and the letter signed "Gener" having been examined by the experts in handwriting, they could not do less than say at the first preliminary examination that they believed both of them, together with the letter at folio 45 and the signatures affixed to his declarations by Don Julio Sanguily, to have been written by the same hand; and the expert who repeated that examination in this proceeding made the same statement, and it is impossible that it could have been otherwise, as it is sufficient, without being an expert, to have a little practice in this kind of comparisons to perceive this, and the person who now has the honor of speaking has not the slightest doubt on the subject, as he made this comparison, letter by letter, with a good magnifying glass.

I am well aware that my assertion in itself alone is of no importance, and that the opinion of the experts is not conclusive, but the court will doubtless repeat this operation, form its opinion, and then decide.

The experts for the defense were not present at the examination in this proceeding as the defense produced them only that they might ratify the declaration which they made in the preliminary proceeding in which they stated that they could not reproduce the document at folio 236, which statement they repeated when it was exhibited to them at the request of the prosecution.

As the prosecution, therefore, bases its argument upon the certain fact that that letter and that appointment were written and sent, by Julio Sanguily, can there be a doubt of his direct participation in the crime of rebellion which is charged in this case?

Both documents are very expressive. The letter says: "He is on the eve of placing himself at the head of a work of redemption," and the prosecution adds that if he did not succeed in doing so on that day it was doubtless because he could not leave his family without giving them some money, which was out of his power; and, above all, because he was arrested before the rising had begun.

Hence, this letter and the statements of López Coloma prove that he induced and decided the rebels, and that he was one of the principal leaders of the rebellion.

And if, in spite of all this, any doubt still remained, it would certainly be dispelled by the appointment as colonel in the insurgent army, seized on Azcuy's person,

and issued by Sanguily, "who has competent authority," since it is very clear that only the principal leaders have such powers.

I have little to say about the evidence produced in this case by the distinguished counsel for the prisoner, as he has not succeeded in disproving by it any of the charges upon which this prosecution is based.

I well know that in the discharge of the honorable professional duty incumbent upon him to defend his client he will distort this evidence, and will by his ability succeed in imparting some life to it, but it will be a fictitious life, which can not withstand a cool and dispassionate examination such as that to which it will be subjected by the court, and to which it has been subjected by this ministry, whose representative on this occasion would have experienced sincere gratification in being convinced by it of the prisoner's innocence in order to desist from the prosecution in this case, as it is always more agreeable and gratifying to find that men are innocent than that they are guilty, especially where great crimes are involved.

This has not been the case, and he has therefore maintained his inferences as conclusive, thereby discharging the very sacred duty imposed by the law of seeing that those who have violated its injunctions shall suffer the penalty of their crimes.

This evidence on the part of the defense was confined to the statements of the persons composing López Coloma's band, who could only say that they did not know that Sanguily was to place himself at their head, and this means nothing more than that, owing to their obscurity, they were not informed of it, as the court may have seen, or that, if they knew it, they now conceal their knowledge, which is not at all extraordinary, as they were all partisans of the same cause, and did not wish to betray their leader.

The prisoner's counsel touches upon one point in his statement of preliminary inferences, in which I think that he is mistaken. After stating those which he considered applicable, and asking for his client's acquittal, he says: "Article 653 of the Law of Prosecutions permits the presentation of alternative inferences, and, if article 678 of the same law allows the parties to reproduce, at the oral trial, the preliminary questions which 'have been rejected,' it can not be disputed that they have a right to offer as alternative inferences any of a preliminary character not presented before that trial."

The defense then states, as an alternative, the inference that, even if the prisoner were guilty, he is relieved from every penalty by General Calleja's proclamation of February 27, granting pardon to all who submit to the authorities within the eight days following its publication.

Let us see what is said in articles 653 and 678 of the Law of Criminal Procedure, upon which the defense lies. [He reads them.]

The right of the parties, therefore, to state alternative inferences on each of the points which are to be the subjects of the decision, in order that they may be taken into consideration in the sentence, is indisputable; but, in my opinion, the same is not the case with the preliminary questions, because, in order that they may be reproduced, article 678 requires that those questions shall have been "previously" raised, and that they shall have been rejected by the sala.

How, then, can that which has not been "produced," and which, consequently, could not be rejected, be reproduced?

But, be that as it may, let us grant that such question is applicable and fitting, and let us examine it thoroughly.

The proclamation cited was dated February 27, and Señor Sanguily was arrested and prosecuted on this charge three days before, to wit, on the 24th.

Can a pardon, then, which had not yet been granted when he was arrested, apply to him?

Let us see its contents. [Reads it.]

As the court may see, article 3 grants full pardon to the rebels, it is true, but only to those who shall submit to the authorities within the term of eight days subsequent to the grant; and, as the prisoner did not fulfill the condition, the benefit of it does not and can not apply to him.

The defense will reply to this that a person who was not at liberty could not submit. If he had been at liberty and if he had rebelled, would he have presented himself within that term? I can not answer that question, for in order to do so it would be necessary to penetrate into the sanctuary of the conscience, and Heaven preserve me from even attempting it. But this I will say, that the object of that pardon was precisely to reach that interior sanctuary in order to learn who had repented of the previous acts which they had committed.

I am now going to try to show, in anticipation of certain arguments of the defense, that the preliminary inferences stated are the only ones possible; but as I must not read the whole code for that purpose I shall confine myself to disproving the applicability to this case of article 244, which treats of prevention and attempt.

Article 244 says [reads it]:

Now, it is essential to the existence of a conspiracy or attempt, and to their being

so designated, that the offense shall not have been consummated, for if it is consummated, it is evident that the penalty to be applied is that which is attached to the offense committed; consequently this article is not applicable to the case, as the rebellion was not only instigated, but is still raging in this island.

Can it, then, be thought, asked the prosecutor, that, because Don Julio Sanguily was arrested on the 24th February and, therefore, could not in person support the rebellion begun on that day, his acts did not pass from the stage and consequently remain in that of attempt or prevention?

This view is also refuted by the clear language of article 238. It says, [he reads it]:

As we see, it requires that the rebels be induced and decided, using a copulative conjunction, and to instigate rebellion; but it does not require that those instigating it shall afterwards support it, because the conjunction used here is disjunctive, "or;" hence, the one who instigates it, although he may not subsequently support it, as in the case of Don Julio Sanguily, has done all that is required by article 238.

And this, apart from his being one of the principal leaders of the rebellion, in which character its penal provisions also apply to him.

In order to conclude, gentlemen of the sala, let us sum up the charges set forth by this ministry in this ill-arranged statement.

The most prominent are—

The prisoner's expressive statement that, "in view of his political standing he is sure that if any important plan had been agreed upon, he would have known it;" by which he plainly confesses that he was one of the principal leaders of the insurrection, as they alone know these plans in advance.

Coloma's declaration, in which he says that he came to Habana to receive his instructions as to whether the cry of independence should be raised or not, and his statement that he knew through Betancourt that Sanguily was to place himself at the head of the insurrectionary movement.

The reports of the Governor-General of this island and the civil governor of the province, stating that Sanguily was one of the instigators of the insurrection; that he was to place himself at the head of it in this city and in the cities of Matanzas and Santa Clara; that he maintained relations and correspondence with the revolutionary junta at New York and with the Separatist committees of this island, and that he had participated in the acquisition of munitions of war.

The letter appearing at folio 94, found at the Portella works, among other papers of Don Julio Sanguily, in which nothing but the revolution is spoken of.

The letter at folio 36, signed "Gener," and directed to Dr. Betancourt, which is undoubtedly entirely in Sanguily's handwriting and in which, as in the preceding, nothing is spoken of but the then rising, and which was written thirteen days before it began, to wit, on the 9th of February last.

And, lastly, the appointment as colonel in the insurgent army issued by Sanguily in favor of Azcuy, with competent authority, which in itself alone proves superabundantly that Sanguily was one of the chiefs and organizers of this armed rebellion, because he could not otherwise have issued these appointments.

On these grounds the prosecutor asks the sala, after weighing the evidence produced, with the good judgment and conscientiousness of which it daily gives so many proofs, to be pleased to sentence the prisoner, Don Julio Sanguily y Garit, as guilty of the crime of rebellion, treated of by article 238, taken in connection with No. 1 of article 287 of our code, without the presence of extenuating circumstances, to the penalty of imprisonment for life, which he asked in his preliminary inferences, and which he has maintained as final, together with the "accesorias" recited in that article, and the costs.

I have finished my prosecution, gentlemen of the sala. The prosecuting ministry aims in all cases at displaying impartiality in its arguments. In that which I am now closing I have taken special care to exclude every atom of passion in the examination of the evidence produced, remembering that if we, the ordinary courts, have cognizance of this case instead of the military courts it is owing to the agreement between the United States and our nation, by virtue of which the civil courts are to try American citizens for these offenses, provided that, as in the present case, the rebels were not caught with arms in their hands. If, then, the most absolute truthfulness and impartiality are always obligatory in the discharge of our duties, they are still more obligatory in this case, when we are trying a foreign citizen, the subject of a friendly nation.

I do not know whether I have well discharged that duty and the others imposed upon me by my office in this trial; but, if I have not succeeded, the court and all others may be assured that it has been owing to my deficiency in ability, to my small command of language, or to some other similar cause, but not to want of good will; nor because I have neglected the means of attaining that end. I have spoken.

THE DEFENSE.

YOUR EXCELLENCY: As your excellency has heard from the lips of the prosecutor, the circle in which this case is developed is very limited; the imputation of a crime—

according to the legal classification—nothing extraordinary, certainly; common, frequent in every latitude of the globe, against a prisoner who is innocent of it, according to the documents in the case and the result of this trial.

Still, the public sentiment has decided to ascribe to this case an importance which, in reality, it does not possess; and this is owing to the fact that public opinion presumes without reason that the political agitation which prevails in the environs may, by crossing the threshold of this august place, exercise some influence upon the serene minds of judges who are great precisely because they are the servants of the law, which convicts without malice, and which acquits without sympathy.

I would be the first to wish that the just and clear case of my client had been represented here, and especially that the erroneous arguments of the prosecuting ministry had been refuted here, through the honored agency of one of our forensic luminaries.

It could not be. But really, the task presents so few difficulties that a man of ordinary ability can execute it without effort, and without any fear that the counsel himself may be the cause of his client's conviction, which alone could make it possible for a sentence of condemnation to be rendered in this case, consistently with justice.

I, therefore, setting forth, though it may be awkwardly, the evidence in the case, submitting it none the less to the impartial consideration of the court, to its wisdom and its penetration, excluding what is false, proving ad nauseam its nonexistence, reconstructing the legal truth as it appears from the facts in the case, without adding or diminishing anything, trust that I shall prevent the court from deciding that the facts constituting my client's guilt have been proved.

These facts do not exist. How could the prosecuting ministry discover them? Its argument resembles a novel, and the denouement with which it winds up, the terrible penalty which it asks, is inexplicable in view of the actual state of the case to such a degree that it can assume form and body only by regarding it as a work of the imagination elaborated on the forbidden ground of the improbable.

I again assert before the court, anticipating the demonstration of the fact, that the punishable act does not exist in this case. Or, at least, there are two standards for the same case—always one of condemnation for my client, always one of acquittal for others who have been in a similar situation to his.

When partially recovering from the astonishment into which I was thrown by the fact that the prosecuting attorney had not in this proceeding modified his exaggerated charge in the sense of acquittal, I rack my brains for the cause; I find no other reason, nor can there be any other, than the moral pressure involuntarily exercised upon the mind by the purest and most elevated ideas, from which it is impossible to withdraw ourselves under certain circumstances, but under the influence of which points of view are admitted as true and real which are in reality optical delusions of the mind, which, deceived by this means, rises from deduction to deduction until it culminates in the most radical of errors.

A most noble sentiment, the summary or synopsis of all the virtues, prevails, it is true, like a generating principle, in the argument of the prosecution, and I do not hesitate to render it that tribute of justice; but the excellencies of patriotism, on occasions like the present, place bandages over the eyes, which conceal the path of legal truth.

Passion, which is a bad counselor, especially in judicial proceedings, is, in its turn, in political trials, necessarily aroused by preconceived ideas; and when these are diametrically opposed to those attributed to the prisoner, the latter, at the time of his defense, has before him, owing to hypotheses based on presumptions admitted *a priori* as evidence, a double prosecutor—the prosecuting attorney, who, if he is humane, speaks impersonally in the name of the law, and the antagonist, who, in the prosecution, yields unconsciously to the pressure of his private feelings.

Thus, in the present case, where the prisoner took a prominent part in the last war, and where he is denounced by the Governor-General himself in a long communication, going into minute details, both factors uniting in the, of course, patriotic mind of the prosecuting attorney—the prisoner's antecedents and the Government's denunciation—the conviction of the prisoner's present guilt arises spontaneously in his mind, and he demands the enormous penalty which is its logical consequence.

The theory upon which the defense relies is entirely different, and, consequently, the mode of procedure which it has to employ in this trial is entirely different. To the great syntheses of the prosecuting ministry it will oppose the most scrupulous analysis and it will sustain its words by proofs, by documents, not taken into account by the prosecuting attorney, although they are entirely conclusive in the prisoner's favor.

Your excellency will now see at once that I am entirely in the right; that the prosecuting attorney is entirely in the wrong; that there is no evidence proving the prisoner's guilt, and your excellency will see how, in logical and legal order, in spite of the frivolous sophistries of the prosecution, the defense stands firm, gaining from the

conscience of the court, by its irrefutable arguments, the unanimously favorable decision which it demands in the name of justice, without servility or adulation, in the name of justice alone.

It is not for me to undervalue any argument, favorable or adverse, as all must be submitted to your excellency's high jurisdiction, and, to be brief—as I must begin with the beginning—I begin by asserting, under the legal rule, that where there is no one accused there can be no oral trial; that this case could not be brought to trial because legally there is no one accused in it, or, what amounts to the same thing, the writ of prosecution is absolutely void, and not even the consent of the prisoner himself can give it force, as its nullity does not affect his personal interests alone, but involves a much higher principle, the public interest or international law.

This is my first proposition, and I proceed to demonstrate it.

Here is the writ of prosecution and arrest.

WRIT OF PROSECUTION.

The present case, transmitted by the judge, dean of the judges in this case, having been received, let the receipt of it be acknowledged, and in view of the reasons given in the opinion of his excellency the auditor of the war, at folio 55, second page, the cognizance of the same is accepted, so far as relates to the American citizens, and to that end let these proceedings be entered in the proper book, and let their institution be communicated to the criminal court and to his excellency His Majesty's prosecuting attorney.

It appearing that on the morning of February 24 last, in consequence of "antecedents and confidential communications, the government proceeded to the arrest of various persons" gravely involved in a projected separatist movement, a band outside of this province having risen in open rebellion on the morning of the said day, under the cry of independence, which case is now under the cognizance of the jurisdiction of war, which has transmitted the previous testimony, in order that the ordinary courts may take cognizance of the said crime so far as relates to the American citizens.

Considering that these acts are invested with the character of the crime of rebellion defined in article 237 of the Criminal Code, and "that the antecedents and other evidence appearing in the proceedings transmitted by the said jurisdiction of war, appear to furnish reasonable presumptions of guilt against Don Julio Sangüily y Garit and Don José María Aguirre y Valdés as guilty of the said crime in the character of principals."

In view of articles 384 and 503 of the Law of Criminal Procedure, his excellency said that he ought to decree and decrees the prosecution of the said Don Julio Sangüily y Garit and Don José María Aguirre y Valdés, and orders proceedings to be instituted in accordance with the charges. In view of their prosecution and of the penalty attached by the law to the crime in question, the provisional arrest of the said Don Julio Sangüily y Garit and Don José María Aguirre y Valdés is decreed; let them be notified thereof, and let the proper orders be issued to the heads of the penal institutions in which they are; and if this fact does not appear from the judicial proceedings, let a respectful communication be addressed to his excellency the Captain-General requesting him to be pleased to say so and to issue the necessary orders that the said accused persons may remain as prisoners at the disposal of this court and for the purposes of this preliminary proceeding; let the accused be notified of the right granted them by law to demand the return of this writ within the legal term, and to appoint at once lawyers and attorneys to advise and represent them in this case, and let the clerk of the court report on the subject at the proper time. Let them be required to give bail, within one term, in the sum of 50,000 pesetas (\$10,000) each, in order to secure the payment of any sums of money which they may be required to pay at the proper time, and if they fail to furnish the said bail proceed to attach their property in legal form. Let the penal and prison antecedents be annexed to the case, and, when done, let report be made, in order that such further decrees as may be necessary may be issued.

The examining judge (juez de instrucción) of the district of El Cerro has ordered the foregoing, and signs it. Witness, Eugenio Luzarreta, Antonio Alvarez Insua.

That is to say, these proceedings transmitted by the jurisdiction of war, in this special case, can have no more weight than that of a mere information, and proceedings are not instituted, nor is arrest ordered, on an information.

The only "considering" of the writ which I am discussing states "that the antecedents and other evidence appearing in the proceedings transmitted by the said jurisdiction of war appear to furnish reasonable presumptions of guilt against Don Julio Sangüily y Garit and Don José María Aguirre y Valdés;" that he, therefore, ought to decree and decreed their prosecution.

And a few lines afterwards: "In view of his prosecution and of the penalty attached by the law to the crime in question, the provisional arrest of the said Don Julio Sangüily is decreed."

The civil judge, in whose favor the jurisdiction of war withdraws, issues the foregoing writ as soon as he has received the evidence, before making any declaration of his jurisdiction. Sangüily is therefore prosecuted and imprisoned for the reasons contained in the evidence transmitted; or, what is the same thing, the civil judge places his signature at the foot of the work done by the jurisdiction of war, from which it follows that Sangüily is to-day prosecuted and imprisoned by the tribunal of war through the intervention of his legitimate judge, if the latter admits as the only charge against the prisoner that made by the incompetent jurisdiction, something hybrid and confused, which international law does not accept, which it condemns.

In the first place, the protocol of January, 1877, by which Ministers Calderón y Collantes and Caleb Cushing interpret the treaties existing between Spain and the United States, provides in the most positive manner that American citizens shall not under any circumstances be tried by military courts, with the single exception of their being caught with arms in their hands.

And in the second place, the United States consul-general, in a series of communications addressed to his excellency the Governor-General, demanding the enjoining of the military authorities, one of which communications appears as evidence in this case, repeatedly makes the following protest:

"By order of my Government I enter before the Government of this island the most solemn protest against all the proceedings hitherto instituted, or which may be hereafter instituted, by the tribunal of war, on the ground that they are in open violation of the agreement between the two nations."

International conflicts are excited or created in this way. The case of Waller, between the United States and France, occurs at this very time. The United States, believing, from information received from a relative of the American citizen, that an irregular procedure had been adopted toward him, demanded of France a full copy of the proceedings in the case, which is now in the possession of the American Government.

And this, although it is not a question, as in this case, of writs issued by the civil authorities, based exclusively on evidence transmitted from the jurisdiction of war, but, according to all the documents published, on niceties of procedure which the competent tribunal failed to observe.

Now, the prosecution and imprisonment of my client is based entirely and exclusively upon these proceedings which the consul denounces and protests against, not of his own motion, but by express order of his Government; and our own Government has not repelled it.

Are such prosecution and imprisonment legal? No; the former is void, and the latter is arbitrary.

And is it not proved, by legal arguments, that this case should not have been brought to oral trial, there being no accused, as the writ of prosecution is void under every aspect?

At the proper time I requested, and the court granted, that both the writ of prosecution and imprisonment and the consular protest should be admitted as part of my client's evidence.

Before leaving this head, I must add two considerations, one of which I have already alluded to, to wit, that it makes no difference that the accused did not enter an appeal against that writ of prosecution, because, where an essential point forming an intrinsic part of an international convention is involved, the will of an individual does not affect the provisions of such convention; and the other consideration has reference to the fact that Sangüily's prosecution and imprisonment were ratified several days afterwards, not for reasons arising subsequently, but "because the grounds for ordering it not having changed, it is proper to carry out the provisions of article 516 of the law of criminal procedure."

THE PUNISHABLE ACT.

In commenting upon it the prosecuting attorney makes four assertions, all of them, without one exception, absolutely untrue.

1. Sangüily, he says, was, up to the day of his arrest, one of the most active promoters and instigators of the insurrection which broke out in this island on that day.

2. Being the person designated to place himself at the head of the insurrectionary movement in this province, that of Mantanzas, and that of Santa Clara.

3. And as principal chief and leader of that insurrection, and as the representative of the revolutionary junta existing in New York, he issued—

4. The appointments conducive to his purposes, among them that of Don José Inocencio Azcuy as colonel in the insurgent army.

On examining the proceedings, it is proved that three of these assertions, far from being original, were gathered from a vitiated source. Their want of authenticity is evident from the very first.

I shall discuss the fourth separately.

Let us study the first three. They are a literal copy of the declaration made by his excellency General Calleja in the proceedings instituted by the military jurisdiction. In proof of this see General Calleja's declaration.

Don Emilio Calleja é Isasi, lieutenant-general in the army, governor and Captain-General of the Island of Cuba, etc., certify, in reply to the preceding interrogatory: (1) That my name is as above stated; that I am of full age; and that I have no direct nor indirect interest in this case. (2) That I affirm and ratify the communication referred to in the question relating to my authority. (3) That as to Don Julio Sanguily and Don José María Aguirre, it is known to me, through confidential communications, both from this capital and from abroad, that they were promoters of the separatist rebellion, and that it was said that they were to place themselves at the head of the insurrectionary movement in the provinces of Habana, Matanzas, and Santa Clara. That their whole conduct, which was closely watched by the police, also proved this; and that it was certain that they maintained relations and correspondence with the Revolutionary Junta at New York, with the workmen abroad, and with the separatist committees of the provinces of the Island of Cuba. Lastly, that by the same confidential channel he has received more evidence concerning their operations, and particularly concerning the participation of those gentlemen in the acquisition of munitions of war, but that, as they are invested with the said character of confidential communications, he abstains, for the present, from repeating them, reserving to himself the right to do so if it should be necessary to furnish proofs, at the time when the administration of justice shall call upon him for such aid in a special case, and in order to have these facts appear in the proceedings. As to Don Ramón Pérez Trujillo and Don Francisco Gómez de la Maza, the same confidential communications have shown that they participated in the separatist conspiracy, that they were present at secret assemblies, and that they maintained relations with the former agitators, to whose operations, as I was informed by the confidential communications, they rendered direct or indirect assistance. That he has nothing more to say. (Habana, March 25, 1895. Emilio Calleja. Rubric.)

This alone would render the testimony inadmissible, as all that I said when analyzing the writ of prosecution and arrest applies to this case. The declaration is based upon the military testimony, and, not being ratified before a competent judge, disappears with the whole weight of that testimony.

But there is more and more important. General Calleja states that he obtained the information which he gives concerning Sanguily through confidential communications from the police.

And the police through its chief, Señor Paglieri, tells the court that, as regards Sanguily, "it has no other evidence than public report, which it can not prove."

Lastly, General Calleja adds that he knows what he testifies, and he offers to furnish new proofs, and for this purpose the court transmits to the Government a statement of the case, which is answered by the present Captain-General of the island in the following words: "That, as regards the evidence corroborating the statements of General Calleja concerning Don Julio Sanguily as a promoter of the Separatist rebellion in this island, and as being in constant relations with the revolutionary junta at New York, he has the honor to inform the court that there is no evidence at this center corroborative of the said statements, but that as they relate to politics, the said General Calleja may have obtained his information in his character as Governor-General, at which center the documents requested may perhaps be found."

"The General Government, when called upon, stated that as regards the evidence relating to Don Julio Sanguily, as involved in the present insurrection, it has to inform the secretary, by order of his excellency the Governor-General, that the documents requested are not at this center."

General Calleja's famous statement is reduced to this: The captain-general and governor-general, his excellency Senor Martínez Campos himself, condemns his statements.

I make no comparisons, but if General Calleja, Don Julio Sanguily's personal enemy, is great owing to the office which he filled, Gen. Martínez Campos, who now occupies that same position, has in his favor, in addition to the admiration of his followers, the esteem and respect of his adversaries; and, if he is a national glory, he is, likewise, a European and a universal celebrity, an indisputable man of honor; and he who is all this, he, and not the impassioned and petty defense, is the one who roundly and categorically denies General Calleja's statements.

On this account, it appeared useless to Sanguily's defense to object to General Calleja as the prisoner's personal enemy, a fact very easily proven. It preferred to oppose to his unsupported charges the full and complete denial of Gen. Martínez Campos.

The prosecuting attorney, on the contrary, gives credit to General Calleja's words, which he copies literally in his inferences in setting forth my client's punishable act. On the other hand, he pays no attention to the documents which I have had the

honor to read to the court, and which strip General Calleja's declaration of all claim to legal truthfulness.

Fourth assertion of the prosecution:

That Sanguily, in the double capacity of leader and representative, issued appointments in the insurrectionary army; among them, that of colonel, in favor of Azcuy.

As it has been shown that there is not, in this case, any element proving the characters attributed to Sanguily, the appointment in question was a private act of the prisoner. It would not constitute a punishable act. The contrary would be the case if Sanguily had been the leader, the representative, authorized to issue such appointments.

And it is certain that this paper, which has been baptized with the name of "colonel's title or commission," is the only one that appears in the case, no allusion being made to any other. It is, therefore, strange that the prosecuting attorney should use the plural in speaking of it.

But this is of little importance. It would be more important to ascertain how the prosecuting attorney knew that this unintelligible paper constitutes a colonel's appointment, issued by Sanguily.

Azcuy asserts that it was given to him by his nephew, Don Nemesio, who had received it from the revolutionary junta at New York. But he does not say that it was issued by Sanguily; and the fact that he came from New York, and that Sanguily resided in Habana, makes us immediately presume the reverse.

The experts who were summoned to reproduce the greatly injured text of the paper declare "that they can form no opinion as to the date at which the document was written, nor as to the contents of the writing, owing to the dilapidated condition of the fragments and the want of the necessary words to form even an approximate idea of the context of the writing itself."

How, then, does the prosecuting attorney know that this paper contains a colonel's commission? Why does he suppose so? A mere private supposition, in opposition to the opinion of experts, is not sufficient evidence to prove a fact, to base upon it the presumption of guilt, and to demand the infliction of the penalty which he asks for my client.

Sanguily denies that the paper in question is his, and Azcuy does not assert it; and, to strengthen the case, the handwriting has not been recognized. It is not known whose the paper denominated by the prosecuting attorney "colonel's commission" legally is; it has not been recognized, and this is shown by the following considerations: Article 466 of the Code of Criminal Procedure provides that the appointment of experts "shall be communicated to the accused without fail and immediately;" and article 7 of the treaty of October 27, 1795, between Spain and the United States, ratified by that of February 22, 1819, which went into force in 1821, and both explained by the protocol of January 12, 1877, provides that United States citizens shall be allowed free access to the proceedings in the cases, and shall be permitted "to be present at every examination that is held."

The examining judge was not, could not be, ignorant of the provision of the law of criminal procedure, although he ignored the article of the treaty; and this is proved by the fact that, in ordering the examination of June 9, 1895, relating to another subject, he ended his writ with the following order: "And let the attorneys of the prisoners know it, in case they wish to be present at the proceeding, and for the purposes of the right granted them by the law."

Now, in the examination of the handwriting of the document which is supposed to be a colonel's commission signed by Sanguily, this same judge suppressed the summoning of the prisoner and his counsel, and took care to summon the prosecuting attorney alone; and the latter, the judge, the notary, and the experts alone being present, the experts took the oath in the form appearing in the minutes, and which is directed by article 474 of the law, and declared in the most solemn manner that they believed the handwriting to be Sanguily's.

No one can doubt the nullity of such a proceeding. The law, both that of the nation and that of the treaty, appears to have been knowingly violated by the examining judge, and nothing resulting from such a proceeding can have any judicial force.

Nor has anything been done to remedy the fault committed as "the same experts," appointed by the prosecuting attorney for the oral trial—those already bound by the oath which they had taken—must necessarily repeat what they had said, under penalty of committing the crime of perjury. Hence, we hold that, for all legal purposes, the void proceedings in first instance are the same that are reproduced here without alteration; and, if they were instituted in the first instance without summoning the prisoner, and are, consequently, void, they continue to be so now; and it follows that the handwriting of the said document has not been recognized by anyone. The experts being the same in this superior court, and being bound by the oath which they took in the inferior court, the want of liberty under which they now labor to dissent from what they said before, renders the expert proceedings the same now as

those which were instituted before; and if they are void in one of their stages they are necessarily void in the other.

To sum up, the experts first selected could not, according to their own voluntary statement, reproduce the text of the injured document; and the other experts have not recognized the handwriting in it; and, consequently, the evidence which the prosecuting attorney might have found in the said paper vanishes.

THE LETTER TO BETANCOURT.

This must be considered separately, alone, without connection with any other document of evidence in the case, as all of them, General Calleja's declarations and the paper found on Azcuy, have no existence in the proceedings, for the reasons given for their rejection. There is therefore no way of connecting this letter with any other document. It must therefore be taken at its own intrinsic value; it must be weighed by its precise words.

To what does it amount in its essence and meaning? Simply to an intention. According to the letter, Sanguily intends to place himself at the head of a "work of redemption," which other people's imagination may presume to be the insurrectionary movement. Even in that case the act does not pass beyond the domain of intention.

Is this punishable? No; not until it is followed up by actions.

A distinguished lawyer of our bar, having been consulted specially on the subject of this letter, expressed in his reply the same view as that which we have stated.

In view of the weight to which his opinion is entitled, we are happy to appropriate his remarks, which treat the question fully and fairly.

I give some extracts from his opinion: "What crime would have been committed if the letter had said, in so many words, 'I need \$2,500—not a cent less—to place myself at the head of the revolution, and I beg you to send me that sum, as I have no one else to apply to'? This is not the crime of rebellion, because Sanguily did not rise publicly and in open hostility against the Government (article 237). Nor does it appear that he induced Betancourt to revolt. It rather appears from the letter that Betancourt was interested in having Sanguily rebel, and that the latter attached a condition to it.

"It is true that others rose in rebellion; but, either because that condition was not fulfilled or because he did not wish to rebel, the fact is that on the 24th of February, at 7 a. m., Sanguily was sleeping quietly in his house when he was arrested by the police.

"There is no evidence that Sanguily was the person designated to head the rebellion; no doubt, as he was a leader in the ten years' war, it might reasonably be thought that he would have been regarded in that light if he had rebelled.

"There is, therefore, on the part of Sanguily, so far as the letter is concerned, no consummated or prevented crime nor attempt at rebellion. The letter, even when taken in connection with other evidence, does not reveal any fixed and absolute intention of rebelling, as he attaches a specific condition to it, and as a mere intention it is not punishable."

Carrara corroborates these views in the following language: "To find the attempt in the mere intention, however firmly resolved to do an injury without the actual commission of that injury, is the same thing as to punish the simple intention, taking the mere moral beginning as the basis of the political guilt."

Pessina expresses the same views in the following words: "It is a universal principle in legislation and science that the criminal intent does not constitute a crime, but that it is necessary that an illegal overt act should appear."

And Don Joaquin Francisco Pacheco, to conclude the citations, treats this point in the following manner:

"The thought of evil is what first presents itself—like a cloud darkening the serenity and purity of the mind. The wish, with its hesitations and doubts, follows; then comes the decision; then, perhaps, the participation or agreement with other persons; in some cases the threat follows; preliminary acts frequently come next; and, after all this, there may be beginnings of execution, suspended by the will of the criminals themselves; there may be abortive attempts; there may be, lastly, frustrated crimes; and all this without there having been real crimes.

"There may be in these thoughts, in these wishes, in these decisions all the moral, purely moral, evil that can be imagined, and Divine justice, before which all the depths of the intention are revealed, will doubtless weigh them and punish them with as much severity as if they had been converted into acts and completed the circle of their aims. But we have already seen, some lessons back, that neither the power nor the right of human justice goes so far; its nature limits it to correcting those evils which cause substantial, visible injury to society, and its means, which are powerless to scrutinize crimes of intention, prohibit it from passing that line and chain it within material limits. Its want of right and its want of power, therefore, evidently unite in this case to oppose to it a barrier which it is unable to overthrow.

"Human justice has not yet any hold on the person who has resolved to be a criminal. It may have it if, among the acts preliminary to the execution, there are any which have in themselves that character; but if, in themselves, they are harmless, if the whole evil of their execution consists in the moral evil derived from the intent with which they are carried into execution, this fact in itself proves that they have not yet come under the jurisdiction of the powers of this world, and that they can not be punished by those who can not rise to the region of conscience. All that the authorities can and should do consists in watching those who show by their actions that they are possibly cherishing criminal designs. It is just that their conduct should be marked and investigated; but there is always a considerable interval between measures of police and those of criminal procedure, and one which can not be overstepped without legitimate grounds without the existence of an actual crime."

I did not intend to speak of the letter which appears at folio 94 of the record, because, in reality, it is not of a nature to exercise any influence on the result of the trial; but it is mentioned by the prosecuting attorney, and this compels me to refer to a document which did not come into this case by the middle door, the legal channel. It has a spurious and repugnant origin. The person who presents it has informed us that he obtained it by committing an act, more than an abuse of confidence, an act of actual fraud. If I wished to use hard words concerning this base act of the police, I might say that the proceeding in the case of the letter might be characterized as taking possession of another person's personal property without the use of force toward the article or of violence toward the person, under the stimulus of an ardent desire to gain reputation or credit, all which constitutes the definition of a crime given in the criminal code.

But I refrain from raising any objections on this point.

It appears that the person who obtained possession of the letter states candidly that, having learned that some furniture was for sale at Señor Portela's works, he pretended to be a furniture dealer, went on the premises, and made that statement to the servant, Caridad, who has testified in this trial. He procured from her admission into the house, in company with another policeman, and the two secretly possessed themselves of some papers, among which, they say, there was a diary of Sanguily's, from which fact the prosecuting attorney immediately assumes, gratuitously, that the fact that the letter belonged to the prisoner appears to be proved.

And I take the liberty of assuming that the whole thing is a mere invention of the police; and the assumption is probable, in view of the fact that the entrance into the house and the search were made in a manner positively forbidden by law.

Even if this were not the case, it would still appear that the letter was not found on Sanguily; that it is not shown that it was addressed to him; that the handwriting is not his; that it was seized in another person's house, and in such an absolutely illegal manner that I have characterized the act as punishable under an article of the criminal code.

Besides, the letter says generally that it is greatly to be regretted that the revolutionists who were exerting themselves abroad could not count on the powerful aid of the anonymous person to whom the letter is addressed. The date of the document is September 8, 1893. In what way can this document prejudice Don Julio Sanguily?

There is another circumstance which, though trifling, is not without its relative importance in this case. It is assumed that the prisoner was the chief of the provinces of Habana, Matanzas, and Santa Clara, and Azcuy's appointment appears to have been made for Pinar del Rio. How, then, could it be issued by the supposed chief of other provinces?

The fact is that the truth is brought out by all the deductions, great and small, that are attempted to be drawn from it. It is not true that Sanguily was the selected leader of the revolutionary movement which was about to take place, and, as this is the truth, there is no evidence, however insignificant it may be, that fails to corroborate that fact.

The jurisdiction of the court is great, omnipotent, so far as relates to the weighing the value of the facts proven. Neither the King nor the Cortes nor the supreme court has the right to interfere to modify what your excellency has declared to be a proven fact. But can such a fact never be the product of invention, of caprice, of intuition?

No, your excellency, such a proven fact, constituting guilt, does not arise in the mind of a magistrate by spontaneous generation; it is produced by external elements, and in this case the evidence, in all its parts, the documentary, that of the experts, and that of the witnesses, all combine to impress upon the mind of the court that the only fact really proved in this trial is the full and complete innocence of the prisoner, who has been wrongfully accused by the prosecuting ministry.

But it is said that a political principle is involved in this case. Does it follow that your excellency, in your character as a citizen, actuated by the purest patriotism, must look with involuntary abhorrence upon a prisoner to whom contrary views are

attributed? It makes no difference, as he can not be convicted, consistently with the requirements of justice, upon vague and intangible suspicions excited by patriotism. The famous words, uttered on a day which was a sad one for justice, "I look for judges and I find only accusers," can not be heard in an impartial court like this.

I care not for the assumption of the fact that Don Julio Sanguily is believed to be a sympathizer with revolutionary ideas. This has only a political bearing, not a judicial one. Your excellency has a loftier duty to perform. You do not know the prisoner; you are ignorant of his antecedents; you do not deduce proven facts from portions of his personal history; and you are trying this man by what appears from the evidence, acquitting or convicting him. And that evidence, as your excellency has seen, only refutes the assertions of the prosecuting attorney.

What remains for me to say in contradiction of what has been stated by the prosecuting attorney is of secondary importance. There remain only confused and disjointed fragments of the primary charges. The apparent reality created by the argument of the prosecution has disappeared. There are no convicting charges. There remain the secondary charges, which I proceed to refute rapidly and briefly.

The pawned revolver and machete: If they were pawned before the 24th of February it tends to prove that the intention of rebelling on that day had not entered Sanguily's mind.

The prosecuting attorney said that he did not think that the counsel for the defense would resort to the expedient, which he characterizes as vulgar, of finding fault with the employment in this trial of the preliminary proceedings. In this instance the public ministry is right. If the counsel for the defense wished to raise difficulties unworthy of the solemnity of this trial—for a controversy in which one party demands the unconditional acquittal of the prisoner and the other asks that the penalty of imprisonment for life be imposed upon him is always solemn—he would say what is the indisputable truth, to wit, that the preliminary proceedings are void from the first to the last line because the treaty of 1795 with the United States, still in force, prohibits in its seventh article all secret preliminary proceedings.

On the other hand, if the prosecution modified its position and, having been defeated on the untenable point of the rebellion, persisted in that of the conspiracy, it would still be in the wrong, because a conspiracy requires the agreement of wills for the commission of a crime and the determination to commit it; and from the evidence in this case there appears only the vague expression of a wish, an isolated and conditional intention at the most. I have already spoken at length on this point in discussing the letter supposed to be addressed to Betancourt, which letter, by the way, both Sanguily and Betancourt disown.

The prosecuting attorney does not regard the alternative form employed by the defense in its inferences as consistent with legal procedure. Without entering into a useless discussion on the subject, the counsel for the defense insists that the law does not authorize the mode of prosecution employed; and even if this were not the case, pardons have a general and obligatory character and can not be waived. The ingrates who repudiate them receive the same benefit from them as those persons who gratefully accept them.

It is, in my opinion, indisputable that General Calleja's proclamation applies to the case of Don Julio Sanguily. As the criminal law is always construed in favor of the prisoner, as in the high state of our civilization and according to the present views of justice, not the justice of the inquisitional epoch, nor that of the council of ten, it is not permissible to say to the prisoner, "As I imprisoned you before you committed the crime, I pardon the principals, but I except you. I condemn you as guilty of the attempt, although I pardoned those who consummated the crime."

And, lastly, all doubt on this point is removed if we consider, as a practical example, what occurred in the case of Betancourt. He was not a rebel who had risen; he was a mere conspirator. He hid himself on the 24th of February. This is stated by the district government of Matanzas and by the chief of police in this city. Now, this head of a conspiracy, this conspirator who did not rebel, who hid himself at the time when the revolutionary movement broke out, sent an agent to the governor of Matanzas as soon as the amnesty was proclaimed, and asked him whether the said amnesty included him; and the governor, after consultation with his excellency the Governor-General, decided that it did include him. A passport was consequently issued to Betancourt, enabling him to take his passage freely for the Peninsula. All this is fully proved in the case. Sanguily's case is identical with that of Betancourt.

All the charges of the prosecution having now been refuted, I cherish the full conviction that there is not a single proof on which to base the prisoner's guilt. And this being true, and there being nothing upon which to base the supposed guilt of the prisoner, I rise, in the name of justice and the law, to ask the court to be pleased, first, to render a judgment of acquittal; and, secondly, to order my client's immediate release.

[From the *Diario de la Marina*, Saturday, November 30, 1896.]

SANGUILY'S CASE.

REMARKS OF THE COUNSEL FOR THE DEFENSE.

The argument of the Government attorney having been made, the presiding judge told the counsel for the defense that he was at liberty to speak. Don Miguel Viondi, the distinguished lawyer, began by saying that the defense of Don Julio Sanguiely was an easy matter. I should have been glad, said he, if my client could have been defended by some great legal light, but the task is so easy that a lawyer of moderate abilities may undertake it without hesitation.

He added that he hoped to prevent the act of his client from being characterized in the sentence as an act which had been proved and which constituted a crime. The charge made by the Government attorney seemed, he said, like a romance, which could only acquire force and dimensions in the fertile soil of the imagination.

He expressed his astonishment that the Government attorney had not modified his argument in such a way as to ask for the discharge of the prisoner. That argument, he said, was full of exaggeration. He attributed this fact to the moral pressure exercised on the mind by ideas under whose influence certain views are accepted as true, which, in point of fact, are but the illusions of a disordered brain.

Passion, which is a bad adviser, especially in judicial proceedings, is, in political cases, necessarily derived from preconceived ideas, and when such views, as is now the case, are wholly at variance with those of the person who is on trial, the latter has to face a multitude of prejudices, and the Government attorney, who should be the impassive representative of the law, unwittingly yields to his feelings.

The feeling of the counsel for the defense is different, and the proceeding of which he must avail himself is different. To the vague assertions of the Government attorney he will oppose his own, which are positive and decided, and to each one of them he will add an indisputable fact.

Your honor will now see that the Government attorney has no ground to stand on, while the counsel for the defense will, by his irresistible arguments, carry the court with him and secure its unanimous vote, and that without any fawning or flattery, but by the justice of his cause alone.

The counsel for the defense further said that he intended completely to demolish the arguments of the Government attorney and to secure an acquittal from the court. He developed this view in various aspects.

The first proposition, said the learned counsel, which I am going to submit to the court for examination and to which I should have been glad if the Government attorney had paid some attention, because, notwithstanding his audacity—

(The presiding judge here called the counsel for the defense to order.)

In this case, your honor, there has been neither a public trial nor a prisoner. On the occasion of the last session the court should have observed that there was no prisoner here.

Counsel then stated that proceedings were begun by the military authorities; that the United States consul requested those authorities not to continue the trial, and that the Governor-General, in compliance with that request, had the proceedings transferred to the civil authorities. There was no doubt, and no discussion.

Citizens of the United States can not be tried by the military courts of Spain, unless they are taken with arms in their hands.

He then read the warrants for the provisional arrest of Mr. Sanguiely and the protest of the United States consul, based upon the fact that no citizen of that country, residing in Spain or the Spanish possessions, and charged with the crime of rebellion against the integrity of the territory or other similar acts, can be tried by a special court, but that he must be tried by the ordinary courts, unless taken with arms in his hands, so that, in pursuance of the instructions of his Government, the United States consul had most solemnly protested against all action by the military authorities in trying the case of Sanguiely.

The protest was accepted by the General Government. The warrant of the judge who conducted the preliminary examination can not be valid, because in default of other grounds he bases the warrant for the prisoner's arrest on the information transmitted to him by the military court.

I consider that this is the way in which international conflicts are created.

He next spoke of the case of a citizen of the United States in Madagascar, whom the French considered as a spy. In this connection he developed various theories of international law, and added that this case might occasion a conflict in which our nation would not get the best of it [excitement].

Everything has been done in this case on the ground of a mere charge which has not been confirmed. On no other basis than this a warrant is issued and my client is arrested and refused even the right to furnish bail. In the meantime his crime,

which is supposed to be of immense importance, is, in point of fact, a very insignificant matter.

This trial is based upon a false foundation, or rather, it has no foundation at all.

But, even admitting that the case is as stated by the Government attorney and accepting his views as my own, still no punishable case has been made out. This I propose to show so clearly and in such a way that the court will have no doubt, and even the Government attorney will, I think, in his inmost soul, think just as I do.

If, after what I am going to say, a single word of the Government attorney remains undemolished, I will accept a condemnatory sentence for my client.

The first assertion of the Government attorney was based upon false elements. The Government attorney accepted them because they came from a high source, and he thought that that source was infallible. Such an element, however, is of no value in this case.

I do not see how a charge can be sustained when it may cause a person to be imprisoned for life, unless, indeed, it has perfectly overwhelming evidence to support it.

(At this point the presiding judge inquired of the learned counsel whether he still had much to say, and on receiving an affirmative reply, adjourned the court until 12 o'clock at noon yesterday.)

The court was opened yesterday at half past 12 and Mr. Viondi continued his able argument, a summary of which we give below.

I propose, said he, wholly to demolish every assertion contained in the argument of the Government attorney, and, when I have done so, I shall have a right to hope that your honor will not consider that my client has been proved to be guilty of any crime.

My work must necessarily be analytical, long, and tiresome, and I consequently need all the attention of the court, proposing, with the tacit approval even of the Government attorney, to demonstrate the fact that his argument is erroneous, fanciful, and groundless.

I shall begin by repeating to your honor the argument of the Government attorney, with a view to demolishing it point by point:

Mr. Sanguily, an American citizen born in the Island of Cuba, was, up to February 24 of the present year, one of the most active abettors of the insurrection, and was designated to be the leader of the insurrectionary movement in this province and in those of Matanzas and Santa Clara, in furtherance of which object he issued, as the leader and principal chief of that movement and as a delegate of the Revolutionary Junta in New York, such appointments as he thought proper, among them the appointment of Don José Inocencio Azouy as a colonel in the insurgent army. I am going to divide this assertion into four parts:

1. Until February 24, the day when he was arrested, he was one of the most active abettors of the insurrection.

2. He was designated to lead the insurrectionary movement in this province, and in those of Matanzas and Santa Clara.

3. As the leader and principal chief, and as the delegate of the Revolutionary Junta in New York, he made such appointments as he thought proper.

4. Among these was the appointment of Don José Inocencio Azouy as colonel.

If this assertion could be proved, the prosecution would be entirely right and the efforts of the defense in this case would be of little avail. On the other hand, if the source from which this assertion has been taken is vitiated, if, in the analysis which I shall make of that source, I reveal a series of inaccuracies of which there is abundant proof; if it shall appear that there is no basis whatever for the argument of the Government attorney, the entire edifice which he has raised falls to the ground.

The Government attorney read a document yesterday which he quoted in his argument and which document is the following: (Counsel here read General Calleja's official statement, which is already known to our readers.)

Here an authority speaks, a high functionary, and for all legal effects that functionary exists as long as the charge exists of which he is a mere agent.

The Government attorney had not asked General Calleja's ratification, but it is a positive fact that the Governor-General was the person who made that declaration and it is important to know and to consider who made those revelations to him. Well, their origin deprives them of all validity.

The chief of police has stated, and he ratified that statement yesterday, that he had no information except public report. So that if that is his only authority, the argument of the Government attorney is reduced to a literal copy of General Calleja's declaration, which was simply an echo of the information, based upon mere rumor, that was furnished by the police.

The words Habana, Matanzas, and Santa Clara are not found save in General Calleja's declaration. There is nothing else to attest their genuineness, and I propose to prove that those words have no foundation whatever.

The examining judge, who held the preliminary examination when the military

authorities no longer had anything to do with the case, thought, very properly, that that declaration of General Calleja was not valid, it having been made in a proceeding which was null and void; he desired that the general should ratify the proceedings, and to that end issued an order requesting the Captain-General to state whether he had received any subsequent information confirming his statements.

He was told in reply that there was no information in the Captain-General's office, bearing date of August 10, of the present year, and signed by Captain-General Martinez Campos. The judge then addressed a communication to the Governor-General and was told that the desired information did not exist in that magistrate's office either.

Now, your honor, it appears that a declaration is on file, but that the statements which it contains can not be confirmed; that the police base their belief simply on public report; and it next appears that the examining judge addressed the Captain-General and the Governor-General, soliciting the information which had been promised, and that he was told in reply that that information was to be found neither in the office of the Captain-General nor in that of the Governor-General. To what, therefore, does the assertion of the governor attorney amount, since it is a mere copy of the declaration made by General Calleja, which has in nowise been proved? And if all its statements are demolished, what value has the argument of the Government attorney?

I might have raised an objection in that which refers to General Calleja, but this might have originated a certain degree of doubt, and it has seemed preferable to me, in conducting this defense, to oppose to General Calleja's assertions those of one who is as great a man as he is, and who represents at least as much as he does; I mean Gen. Martinez Campos. This is no dispute between the humble lawyer like myself and the distinguished Government attorney; the issue lies between General Calleja and Gen. Martinez Campos. The latter general stands before the former with the importance, not of his position, but of his person and his history, which are admired both in Spain and in other countries.

The Government attorney then says, referring to Sanguily, that, as the leader and principal chief of the movement and as a delegate of the junta in New York, he made such appointments as he thought proper, among them that of Don José Inocencio Azcuy as an insurgent colonel.

Observe, your honor, in the first place, that even if this story about the appointment of Azcuy were true, it would not have the importance which is sought to be attributed to it, those assertions being demolished.

It is not the same thing when a person having authority makes such appointments, and when another, who has no authority, does it from caprice. The importance of the fact would lie in Sanguily's really having been a delegate of the Revolutionary Junta. But if this were not the case, if it should appear (I am speaking hypothetically) that Sanguily had made that appointment on his own responsibility, just as if I, in a fit of insanity caused by a troublesome situation, should appoint colonels in my mere capacity as a lawyer, what importance would this have? It would be a stillborn child, and could have no effect whatever.

The Government attorney, perhaps owing to his excessive fluency of expression, has exaggerated the crime with which he charges Sanguily by putting it in the plural, since he speaks of appointments, when there is but one appointment in the case, and this is nothing but a paper the writing on which can not be deciphered.

How does the Government attorney know that that unintelligible paper is the appointment of a colonel? He must have found it out by divination, since there is no record and no elements sufficient to authorize him to assert it.

The Government attorney has told us (and I believe it) that he who has special knowledge as a reader of documents has most carefully studied the fragment of the letter in possession of the court, and that he has deciphered its contents. He will not, however, be offended if nobody believes him on his word; and if every one, especially the court, declines to recognize him as possessing any authority in this matter, although he has such high authority as the representative of the Government, who is probably soon to be appointed to a magistracy, nor will he be offended if great importance is attached to the authority of the experts who are acting in an official capacity; that is to say, to those gentlemen who have declared, and ratified their declaration, that the document is absolutely undecipherable. If that document, then, had been issued by Sanguily, it would have had no authority, having been issued by a private individual, and even then there is nothing to show, nor is there any ground to assert that it was issued by Mr. Sanguily, since two of the experts disagree entirely with the conclusions of the Government attorney.

But the Government attorney will say: "Azcuy affirms it." And I say: "Sanguily denies it." And as we have before had to deal with the opposing opinions of Calleja and Martinez Campos, so we now have the opposite assertions of the Government attorney and of the experts.

It is to be observed that, in that document, there appears a P, which can not be

explained, by the side of Sangui's signature. Azcuy states, moreover, that that document was given to him by a nephew of his, who had received it from the Revolutionary Junta. The court will please consider that Mr. Sangui, who was in Habana, could not have issued that document.

But Azcuy says, in his statement, something that deprives that document of any importance. A Mr. Collazo, who is an influential member of the New York Junta, said when Azcuy presented himself with the document, that he did not recognize him as having any authority, because such military grades were earned in war.

That paper, therefore, has no significance whatever. Even if it were intelligible, it would be of no importance, since its importance would depend upon the authority of the person who issued it; as it is, it is nothing but a piece of paper without any meaning whatever. That document, moreover, is written in a hand which is not Sangui's, nor has it been recognized as such, since Mr. Biosca, the expert, who declared that it was the same as that of the other letters written by Sangui which are in possession of the court, had no right to make a statement before the civil authorities, since he was bound by the oath which he had made before the military authorities. I can not understand how the Government attorney has introduced that expert here, since he necessarily, and even under penalty of being prosecuted for perjury, had to repeat what he had stated before the military authorities.

The experts, moreover, were not summoned according to law. In the treaty concluded by Spain with the United States, which was signed in 1795, ratified in 1819, and definitely confirmed in 1821, as likewise in the protocol of 1877, it is provided that persons of both nations who are under prosecution shall be permitted, with entire reciprocity, to employ lawyers and attorneys in whom they have confidence, and that they may cause them to take part in any business that they may think proper, any secrecy in the preliminary examination being prohibited.

This course was pursued when experts were summoned to examine the letter addressed by Mr. Sangui to Dr. Betancourt. The attorneys of the parties were then summoned, but when it was sought to compare the handwriting of that letter with that of the so-called appointment as colonel and to amplify, at the same time, the investigation concerning Messrs. Sangui and Azcuy the Government attorney alone was present, the attorneys of the accused parties not having been summoned, so that Mr. Sangui was deprived of the guarantees of the treaty of 1795.

The proceedings of yesterday are, as regards their legal effects, null and void, and it may consequently be asserted that neither the document in question was issued by Don Julio Sangui, nor has it since been elicited, nor the handwriting recognized.

Now, if this is so, what remains of the argument of the Government attorney? I divided it into four propositions; some are contradicted by the Governor-General, and the others are entirely demolished in the analysis which I have made of the facts. I therefore have a right to say that no legal charge has been formulated here against Don Julio Sangui.

The learned counsel then said that he had not thought of referring to the anonymous letter in possession of the court, in which Sangui is urged to direct the revolutionary movement, because that letter did not properly come into the possession of the court. It was apparently taken from a closet in which Mr. Sangui kept some of his effects on the estate Portella. The person who took it did so against the will of its owner. That person was a policeman, who at the same time took what is said to be a diary kept by Sangui, and, as the proceeding was a repulsive one, and moreover as nothing shows that that letter was not written by the policeman himself, counsel did not think that the court should pay any attention to such a document, the manner in which it was obtained being inadmissible and repugnant to every feeling of propriety.

But, at all events, as in that letter Sangui is urged to lend his support to the revolution, the letter becomes evidence that Sangui had nothing to do with the movement.

Let us now take up a highly important subject; and I will begin by admitting to the court that I propose to refer to the only document that has given rise to any doubt. I mean the letter written to Betancourt. But does that letter to Betancourt say anything? There is something vague and confused that might be converted into a charge against Sangui; but when all the previous arguments of the prosecution are reduced to zero, how should that letter be considered? It should be considered as alone and isolated, without connection of any kind.

(Counsel here read the last lines of the letter, which are as follows: "Cervantes did not eat any supper when he had finished Don Quixote, and I, being about to place myself at the head of a work of redemption, have not the means to send my cook to market.")

The Government attorney understands that that work of redemption is the revolutionary movement. Well, I will accept that as a hypothesis, protesting, however, against any such interpretation. But even thus, that reveals nothing but the intent

to commit an act. And where and when do his intentions subject a man to punishment? An intention is punishable only when it is carried out; only then can it furnish ground for repression; but the most frightful and guilty projects escape punishment so long as they do not go beyond the recesses of one's mind.

When that letter was written—that is to say, on the 9th of February, 1895—the utmost that could be supposed was that Sanguily was thinking of placing himself at the head of a movement, no one knowing what is the exact meaning that is to be attributed to that expression “at the head.” But if the facts have deprived the intention which the writer of the letter may have had of any force, why does the Government attorney consider it as a charge?

Any doubt that I may have had on the subject has been dispelled not only by the writings of the ablest lawyers, but by the opinion of a distinguished legal gentleman of this bar, who is respected by everyone.

(He here read an opinion of that gentleman, whose name is not given, in which it is stated that if Sanguily had, for instance, asked for \$2,500 to enable him to place himself at the head of the revolution, he would not have committed the crime of rebellion, because he laid down conditions to someone who desired him to take up arms, and confined himself to expressing an intention which was subject to determinate conditions.)

The learned counsel, however, quoted from Carrara, Pessina, and Pacheco, with a view to showing that intentions are not punishable; that they escape human punishment, and are punished in spiritual relations only. He then said that, even though all the proofs that had been demolished were still conclusive, we should then have nothing more than an intention to deal with.

The proceedings were adjourned at half past 2, owing to the fatigue of the learned counsel. They were shortly afterwards resumed, when he continued his argument. The documentary evidence and the evidence of experts being now at an end, and the evidence of the witnesses having been treated at considerable length, I propose, said he, to speak of another witness, viz, Don Ramón Sanchez, the owner of the pawn shop.

According to the statement of the Government attorney, Mr. Sanguily was regarded as the leader of the revolutionists who were to rise in Habana, Matanzas, and Santa Clara. It has been said that in this rather extensive circle of authority, but only within it, could he make appointments, and nevertheless this contradiction arises. A Mr. Azcuy, who says that he had received an appointment as colonel, signed by Sanguily, does not figure in any of those provinces but in that of Pinar del Rio. Observe the evident contradiction. By what authority was Mr. Sanguily, a leader in Habana, Matanzas, and Santa Clara, to authorize appointments in Pinar del Rio? The truth is that, as Don Julio Sanguily was not a revolutionary leader anywhere, that document, which at first seemed to be overwhelming, turns out to be in Sanguily's favor. There are no witnesses here from Habana or Santa Clara, but those from Matanzas have positively and categorically said that they recognized Mr. Betancourt as their leader, and that the band was led by Coloma, who yesterday made a statement to the same effect. To this argument, therefore, the other is added.

Mr. Viondi then indulged in a lofty flight concerning the omnipotence of the court to declare the facts proved, saying that, in a monarchical government, not even Parliament has so much authority; but that this very fact imposes an immense responsibility upon the court in rendering its decisions.

In this case, a proved fact can not be deduced either from the documentary evidence nor from that of the experts and the witnesses.

What is a political cause? Is there anyone here or in a foreign country who will dare to formulate any charge against your honor? Prominent men are always exposed to be both praised and criticised. Your honor, as a man of the purest and most genuine patriotism, must feel repugnance at seeing an accused person to whom views are attributed which he does not entertain. No matter, your honor does not come here to discharge any function other than an impartial inquiry into the facts. A condemnatory sentence can not be pronounced in the name of patriotism. No, your honor, no; those words which were uttered before a revolutionary tribunal, “I ask for judges and find nothing but accusers,” have been banished by modern civilization from our judicial proceedings. What matters it that Don Julio Sanguily may have been suspected as a sympathizer with the revolution? This is considered in the political order of things, but your honor has a higher duty to perform. You do not know the prisoner, you are ignorant of his antecedents; you judge the man here for that which he is, and confine yourself to his penal history, the evidence of which is on file in this court.

Proved facts do not grow out of a sudden inspiration; they have their root in the inner conscience, and no one can dare to penetrate the inner conscience of the court; but they do not arise as a spontaneous production, they are formed of external ele-

ments which combine and give rise to conviction. And if from all these proceedings not even a remote fact is obtained, if those elements do not exist, whence is the proved fact to arise?

I hope your honor will consider the statement made by the owner of the pawn shop, who says that Sanguily pawned a revolver and a machete at his place; but that the month of February came, and that Sanguily had not redeemed that revolver and that machete. Your honor is aware that Sanguily's pecuniary situation was not brilliant, and it was very natural that when he was able to purchase what he needed for a small outlay, he should not make a larger one. I understand, therefore, that the statement of the owner of the pawn shop is a confirmation of the fact that Mr. Sanguily did not think of taking any part in the revolutionary movement.

The Government attorney also said, although I will not stop long on this point, that he supposed that the counsel for the defense would censure the proceedings had at the preliminary examination. Since I who am convinced that these public trials are composed of everything, of the air which is breathed, of the paleness of the prisoner, of the most trifling details, I shall not disdain the elements furnished by the preliminary examination.

If I desired to create incidents not in harmony with the majesty of these proceedings (since a trial in which one party demands the acquittal of the prisoner, and the other demands his imprisonment for life, is always solemn) I should say that the preliminary examination was null and void from its first to its last line, because the treaty of 1795 with the United States prohibits any secret examination, and that clause was here violated. A Spanish citizen can not be prevented in the United States from taking part in all the proceedings of an examination, for if he should be, it would be a violation of law. Here, however, important proceedings have been held, in which my client has not been allowed to take part; there has been a secret examination.

But the Government attorney might say: It is true that there is no rebellion; it is true that those documents furnish no proof of the existence of one; yet the conspiracy remains.

It might be and would be punishable, but a conspiracy requires two elements—a concert of purpose and the intention to commit the act.

A conspiracy, according to the code, exists only when two or more persons arrange to commit a crime and resolve to carry out their purpose. In the letter attributed to Betancourt there is nothing but the vague expression of a desire; there is nothing but an intention. Sanguily, moreover, denies the genuineness of the document, and Betancourt, under oath and with all legal formalities, denies it before the United States consul, saying that the letter is spurious.

Passing on to another point, I must express the surprise which I felt when I heard that the Government attorney had said that this defense had not been conducted on correct lines because I had made an alternative request. If his client should not be acquitted, counsel had asked that he might be pardoned on the ground that he was included in the proclamation of February 27. The law does not prohibit the course which I have pursued, and I have based my action upon the provisions of the law.

I should be glad, however, if the Government attorney were right even for this once, viz, in saying that my request for a pardon could not be made in the improper form in which he alleges that I made it. But it is the same thing. A pardon has a general obligatory character and can not be renounced. It embraces him who is grateful for it, and favors the ingrate who feels no gratitude.

I say that the pardon, by its terms, embraces Don Julio Sanguily, even if he should be condemned. Does it favor the prisoner? Well, it embraces him. Was it extended on account of acts committed at the time when he was arrested? Yes. The justice of to-day is not that of the Council of Ten of Venice. Justice favors the prisoner, and the judicial code of this age of the world is not that of the Inquisition.

No one can say: "I keep you in prison; I pardon those who committed what you intended to commit, and I keep you in confinement." No, the law is not now interpreted in that way; the law favors the prisoner so far as is compatible with justice, being based upon the humanitarian principles of Christianity.

But if this were not sufficient, there is a practical fact in this case. I refer to the case of Dr. Betancourt. He is not a rebel; he was a conspirator, the leader of those who rose in Matanzas. But the movement was inaugurated on the 24th of February; Betancourt took no part therein and hid himself; the pardon of February 24 was published, and Betancourt, who had committed no act of rebellion, who had not risen in arms, who was in the same situation in which the police think Sanguily is, asked the authorities of Matanzas whether he was embraced in the pardon. As those authorities could not decide the question, they referred it to General Calleja, who, in reply, said, "Yes;" and Betancourt was pardoned and received a passport for the Peninsula.

Betancourt's case was therefore identical with that of Sanguily's, and the pardon extended to Betancourt should necessarily be granted to Sanguily.

It seems to me that, inasmuch as I have demolished all the charges made by the Government attorney, I have a right to the conviction that there is not a single fact on which the guilt of the accused can be based. This being so, your honor, and as there is no cause on which a charge of guilt can be based, since all the theories of the Government attorney have been overturned, I think that in the name of justice and of the law I may ask your honor, in the first place, to acquit my client, and, in the second place, to order his release.

When Mr. Viondi had finished his argument, Sanguiy was asked by the presiding judge whether he had any statement to make to the court, and, as he said that he had none, the proceedings were declared closed, in order that sentence might be pronounced.

ERRATUM.

In our edition of yesterday morning, in the report of the statement made in his examination by Don José Inocencio Azcuy, which was read by the clerk at the request of both parties, an error occurred, which we hasten to correct.

Where it says that Enrique Collazo confirmed the appointment as colonel, it should say that he did not confirm it.

[From the *Diario de la Marina*, Tuesday, December 3, 1895.]

SANGUIY'S CASE.

THE SENTENCE.

Yesterday, at twenty minutes past 4 in the afternoon, the third section of the criminal court of this audiencia having met, the sentence of that court in the case of Don Julio Sanguiy for the crime of rebellion was read by his honor Don José Pulido y Arroyo. The text of his sentence is as follows:

"In the city of Habana, on the 2d of December, 1895, the case, which had previously been before the examining judge, having been tried in public before the third section of the criminal court, one of the parties thereto being the Government attorney and the other the attorney Don Luis Plutarco Valdés, under the direction of Don Miguel Francisco Viondi, acting in behalf of and representing Don Julio Sanguiy y Garit, a native and resident of this capital, an American citizen, 44 years of age, married, son of Don Julio and Doña Maria, of the mercantile profession, a man of education, without penal antecedents, arrested and placed on trial for rebellion, in which case the proper legal customs have been observed."

The sentence was read by Don José Pulido, the presiding judge of this court.

1. Whereas, in the proceedings instituted by the military authorities for the crime of rebellion against Don Eladio Larranaga, Don Julio Sanguiy, Don Jose Maria Aguirre, and others, it was ordered that testimony should be taken concerning everything relating to the aforesaid Sanguiy and Aguirre, in order that it might be turned over to the civil authorities, for the reason that, according to the protocol of January 12, 1877, those authorities were the ones competent to take cognizance thereof, the prisoners being citizens of the United States; and the said testimony having been sent to the senior judge, he in turn transmitted it to the examining justice of the district of El Cerro, who proceeded to examine the case;

2. Whereas it is proved that Don Julio y Garit, whose affiliations were with the separatist party, in which he enjoyed influence and prestige owing to the services which he had rendered to the rebel cause in the insurrection which ended in 1878, sustained relations with persons residing in this island and abroad, for the purpose of organizing an uprising to secure independence, and was one of the abettors and leaders of that uprising;

3. Whereas it is proved that Don Antonio Lopez Coloma, a resident of the jurisdiction of Matanzas, came to this capital on the 21st of February for the purpose of receiving orders and instructions from Don Julio Sanguiy, and of agreeing whether the cry of "Hurrah for independence!" was to be raised or not, they agreeing that the uprising should take place on the 24th, as it did take place, various bands rising in arms in open hostility to the Government, with a view to proclaiming the independence of this island, Lopez Coloma being in one of those bands, and the said Coloma having been taken by the forces of the army, and several weapons and various documents having been taken from his person, among them a letter written by Don Julio Sanguiy, dated February 9, and addressed to Mr. Betancourt, who was also concerned in the uprising, in which letter Sanguiy, after lamenting his lack of means, and saying that he was so poor that he was unable to take the field and redeem a machete and a revolver which he had in pawn, urges Betancourt to get for him as soon as possible the \$2,500 which he had promised him, adding that he had no head to think about anything that was of interest to him, and concludes by saying that while on the point of placing himself at the head of a work of redemption he had not even the means to send his cook to market;

4. Whereas it is proved that at the time when the letter in question was written Sanguiely had in pawn, in the pawnshop known as La Equitativa, a machete and a revolver which were afterwards sold after his arrest, by his order;

5. Whereas it is proved that Don Julio Sanguiely was arrested in the house where he resided in this capital, at an early hour of the morning of February 24, viz, the same day on which the uprising took place;

6. Whereas it is proved that when Don Jose Inocencio Azcuy arrived in this port from Tampa he was arrested by an inspector of police, who took from him a document which he had hidden in his cravat, and that when the aforesaid Azcuy saw that he was discovered he snatched a part of said document out of the hands of the inspector and put it in his mouth for the purpose of destroying it, and that the inspector compelled him by force to spit out the pieces, and that the said document was written and signed by Don Julio Sanguiely, and contained an appointment as colonel in the insurgent army, with power to organize troops and to make appointments;

7. Whereas when the order to end the preliminary examination was confirmed, the previous session was held, and, in accordance with the request therein made by the Government attorney, an order was issued to quash the proceedings provisionally, one-half of the costs to be paid by Don José Maria Aguirre, and the public trial of Don Julio Sanguiely was commenced;

8. Whereas the papers having been delivered to the Government attorney, that officer made an argument characterizing the acts as those of rebellion, provided for in article 237, No. 1, and punished in 238 of the penal code, and asked that Don Julio Sanguiely y Garit should be sentenced as guilty of the aforesaid crime to imprisonment for life, with the accessory penalties of article 33 of the code, and to the payment of one-half of the costs;

9. Whereas the counsel for the defense, in his turn, asked for the acquittal of the prisoner on the ground that there was no legal reason to suppose that his client had committed the acts attributed to him, and proposed as an alternative that his client should be pardoned on the ground that he was included in the proclamation published on the 27th day of February;

10. Whereas, the proofs offered by the Government attorney and the prisoner's counsel having been accepted, a day was appointed for holding the public trial, on which occasion they reiterated their previous arguments;

11. Whereas, according to article 8 of the civil code and article 41 of the law concerning foreigners, the penal laws are binding upon all persons living in Spanish territory, and as, consequently, the provisions of the penal code are applicable to Don Julio Sanguiely y Garit, since his American citizenship gives him only the rights granted by the protocol of January 12, 1877, which rights have been recognized;

12. Whereas, according to article 237, No. 1, of the penal code, persons who publicly rise in arms in open hostility to the Government in order to proclaim the independence of Cuba and Puerto Rico, or of either of them, are guilty of the crime of rebellion;

13. Whereas the acts declared to have been proved in the third "whereas" constitute the consummated crime defined in the twelfth "whereas," since the object and purpose of the rising which took place on the 24th of February is to secure the independence of this island;

14. Whereas, according to article 238 of the same code, persons who induce others to become rebels by promoting or sustaining the rebellion, and the principal leaders thereof, are to be punished by imprisonment for life;

15. Whereas the facts declared to have been proved in the second, third, fourth, and fifth "whereases," conclusively show that Don Julio Sanguiely y Garit was guilty, through direct participation of the crime defined in the thirteenth "whereas," and has rendered himself subject to the penalty provided for in the fourteenth, because not only was he one of the promoters of the rebellion but was also one of its leaders or principal chiefs, as has been shown to the satisfaction of the court, not only by the data in possession of the court and by the evidence taken at the public trial, but also by an examination and comparison of the documents connected with the third and sixth "whereases," in the undoubted handwriting of the prisoner (which examination it performed in fulfillment of the duty made obligatory upon it by article 726 of the law governing criminal trials), and, moreover, by the context of the letter addressed to Betancourt fifteen days before the uprising took place, and by the context of the document taken from Azcuy, inasmuch as appointments of that importance can be made only by the directors or principal leaders of the rebellion;

16. Whereas the fact that Don Julio Sanguiely was arrested on the morning of the very day on which the uprising took place does not authorize the court to consider him as guilty merely of a frustrated crime or attempt to commit rebellion, because from the letter and spirit of article 338 it is to be inferred that promoters of the rebellion are liable to the penalty therein provided, even though they are not at the head of any rebel bands or actually sustaining the rebellion, it being sufficient that they have promoted it, and because, it having been satisfactorily shown that Don

Julio Sangnily was one of the principal leaders, it appears that he is certainly included in said article;

17. Whereas leaving out of consideration the fact that the alternative request made by the prisoner's counsel should have been made as an article of "previo pronunciamiento," in which case alone it could have been reproduced at the public trial, according to articles 666 and 678 of the law governing criminal trials, it is certain that the granting of that pardon does not come within the competency of this court, and that, on the hypothesis that the prisoner (although he was arrested three days before the publication of the Captain-General's proclamation) was entitled to it, the granting of that pardon is wholly foreign to the existence of the crime of rebellion and may become a special case by itself, because, until its application, a crime exists which is punished by the code, and there are no subsequent legal circumstances that prevent its punishment, as was declared by the supreme court in its decision of July 16, 1873;

18. Whereas neither the Government attorney nor the counsel for the defense have pointed out any extenuating circumstances, and as none are to be deduced from the facts declared to have been proved, and as it is therefore proper to enforce the mildest penalty provided for the crime, viz, imprisonment for life;

19. Whereas there is no reason to enforce civil responsibility, and as the costs are understood to be required by law from those who are guilty of any crime:

Now, therefore, in view of the articles of the penal code which have already been quoted and also of articles 1, 11, 12, 26, 53, 62, 79, 89, and 741 of the law governing criminal trials, we pronounce sentence to the effect that it is our duty to condemn, and we hereby do condemn, Don Julio Sangnily to imprisonment for life, with the accessories of being deprived of his civil rights and being subjected to the vigilance of the authorities during his lifetime; and in case the principal penalty be remitted we condemn him to absolute deprivation of his civil rights and to subjection to the vigilance of the authorities during his lifetime unless these penalties shall be remitted in the pardon; and we further condemn him to the payment of one-half of the costs of the preliminary examination and to that of all those which have grown out of this case since the public trial was begun; and in view of the incident of seizure of property we declare Don Julio Sangnily to be insolvent for the purposes of this case. Thus by this our sentence we do pronounce, order, and sign.

JOSÉ PULIDO.
FRANCISCO PAMPILLÓN.
VICENTE PARDO BONANZA.
ADOLFO ASTUDILLO DE GUZMÁN.
RAFAEL MAYDAGÁN.

The foregoing sentence was read and proclaimed by his honor the presiding judge of this court, Don José Pulido y Arroyo, in public session held this day; to which I certify.

MANUEL RAMÓN HERNÁNDEZ,
Acting Clerk of Court.

Mr. Uhl to Mr. Williams.

No. 1203.]

DECEMBER 7, 1895.

SIR: I inclose for your information a copy of a resolution of the United States Senate calling for all the correspondence relating to the arrest, trial, conviction, and sentence of Julio Sangnily, and directing that a copy of the record of the trial be obtained.

You are instructed to obtain and forward to this Department as soon as practicable a certified copy of the record.

I am, etc.,

EDWIN F. UHL,
Assistant Secretary.

[Senate resolution, December 5, 1895.]

IMPRISONMENT OF GENERAL SANGUILY.

Mr. Call submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of State be directed to send to the Senate all correspondence relating to the trial, conviction, and sentence to hard labor for life of

F R 96—52

General Sanguily, an American citizen, for alleged complicity in the war against Spain by the Cubans, and if no authentic record should be on file in the State Department, that the Secretary of State be directed to obtain a copy of the record of such trial.

Mr. Uhl to Mr. Williams.

No. 1212.]

DECEMBER 23, 1895.

SIR: From your dispatch, No. 2677, of the 7th instant, and from a letter, filed under date of the 13th instant from Mr. Julio Sanguily, the Department has learned the result of the trial of Mr. Sanguily in the criminal court of Cuba. From these reports of the trial there is reason to apprehend that the proceedings which terminated in Mr. Sanguily's conviction were not in accordance with the treaty of 1795 as construed by the protocol of 1877. It is inferred from these reports that the civil court took up the case against Sanguily where the military tribunal left off, and that the trial proceeded upon the charges formulated and upon the evidence taken by the military court. It is necessary, before taking action, that the Department should be accurately and fully advised as to the manner in which the trial has been conducted with reference to the code of criminal procedure and to the provisions of the treaty and protocol. The position of this Government is outlined in a telegram to your office, date May 21, last, to which you are referred.

You are instructed to make this report with as little delay as possible, setting forth each step in the proceedings from the first arrest by the military authorities to the conviction in the civil court.

I am, etc.,

EDWIN F. UHL,
Assistant Secretary.

Mr. Williams to Mr. Uhl.

No. 2686.]

UNITED STATES CONSULATE,
Habana, December 24, 1895.

SIR: With reference to previous correspondence relating to the arrest and trial of the American citizen Mr. Julio Sanguily, for rebellion against the sovereignty of Spain in this island, I have now the honor to inclose a copy and translation of a communication received under date of the 8th ultimo from the chief justice of the royal audiencia of the province of Habana, asking for a literal copy of the formal protest I addressed the Governor-General by order of the Department on the 25th of last April against all the proceedings that had been practiced then or that might be practiced in the future by the military jurisdiction in the trial of Sanguily, because contrary to the provisions of the Collantes-Cushing protocol of the 12th of June, 1877, which requires that the above should be tried exclusively by the ordinary or civil jurisdiction.

I also inclose copy and translation of my answer to the chief justice, with which I accompany copy of my said protest. I sent a copy of this protest to the Department with my dispatch, No. 2491, of the 25th of April last.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 1 in No. 2686.—Translation.]

Mr. José Pulido to Mr. Williams.

HABANA, November 8, 1895.

To the Consul-General of the United States:

With reference to the cause proceeding from the court of the Cerro district, and instituted against D. Julio Sanguily on the charge of rebellion, the extraordinary section of the criminal hall, over which I have the honor to preside, begs you to please furnish it with a literal copy of your communication of the 25th of April last to the general government of this island, in which a protest was formulated by that consulate-general in connection with this case.

God guard you many years.

JOSÉ PULIDO.

[Inclosure 2 in No. 2686.—Translation.]

Mr. Williams to Mr. José Pulido.

UNITED STATES CONSULATE-GENERAL,

Habana, November 12, 1895.

To the President of the Superior Court of Habana.

SIR: In answer to your attentive communication of the 8th instant, requesting that the criminal hall (sala de lo criminal) of your worthy presidency be furnished with a literal copy of the communication which by special order of my Government I addressed the Governor and Captain General of this island on the 25th of April last, I now have the honor to inclose literal copy of same.

I am, etc.,

RAMON O. WILLIAMS, *Consul-General.*

[Telegram.]

Mr. Olney to Mr. Williams.

DEPARTMENT OF STATE,

Washington, January 6, 1896.

It is represented that volunteers demand the life of Sanguily. Make instant inquiry, and if apprehensions be grounded ask effective measures to uphold the law. Report the situation by telegraph.

[Telegram.]

Mr. Williams to Mr. Olney.

HABANA, January 7, 1896. (Received 3.16 p. m.)

I have made instant inquiry Governor-General. He replied there is not the least danger life Sanguily from the volunteers, who, perhaps, do not even think of him. He is detained in strong fort, comfortably lodged; is granted every consideration possible personally; is safe. For my part can see no grounds for apprehension.

[Telegram.]

Mr. Uhl to Mr. Williams.

DEPARTMENT OF STATE,

Washington, January 23, 1896.

When may certified copy of record in Julio Sanguily's case be expected? Requested in my No. 1203, December 7 last.

[Telegram.]

Mr. Williams to Mr. Uhl.

HABANA, January 24, 1896.

The superior court refuses to furnish a certified copy of the proceedings in the trial of Sanguily. I am translating the correspondence for transmission to you.

[Telegram.]

Mr. Uhl to Mr. Williams.

DEPARTMENT OF STATE,
Washington, January 25, 1896.

Apply for permission to examine and copy the record in Sanguily's case. If granted, have same copied and transmit here.

Mr. Williams to Mr. Uhl.

No. 2756.]

UNITED STATES CONSULATE-GENERAL,
Habana, February 6, 1896.

SIR: In conformity with your instruction No. 1203, of the 7th of December last, directing me to obtain as soon as practicable a certified copy of the record of the trial of the American citizen Mr. Julio Sanguily, I now beg to inclose for the information of the Department copies, with translations, of the correspondence had on the subject.

Inclosure No. 1 is a copy of my communication dated the 20th of December last, asking the president of the superior court of Habana to please order that a copy of the said record be furnished me for forwarding to the Department; and inclosure No. 2, of the same date, is the answer of the president, informing me that he had referred my communication to the third section of the hall for the trial of criminal cases; inclosure No. 3 is copy of my second communication, dated the 22d of the same month of December, to the president, asking him to please inform the aforementioned third section that the Government of the United States desired the authenticated copy of the record for the purpose of comparing and satisfying itself, in the exercise of its right as one of the two contracting parties, if the proceedings have been in accordance with article 7, of the treaty of the 27th of October, 1795, and the protocol construing it of the 12th of January, 1877; and inclosure No. 4 is copy of the answer of the court, dated the 27th of the same month, declining to furnish the desired copy of the record, on the ground of a lack of jurisdiction on its part and because of the case having been appealed to the supreme court at Madrid.

In view of this second refusal, I again addressed the president of the superior court, as shown by inclosure 5, on the 13th ultimo, asking to be informed of the facts with citation of the law upon which the judge of the civil jurisdiction founded the order of indictment and imprisonment of Mr. Sanguily, adding, if possible to obtain it, that the Government of the United States would be pleased if he would order a full and literal copy of the proceedings to be furnished it. This was answered on the following day, the 14th, by the president informing me that my note had been referred, like the others, to the same third section for its

action. And on 20th I received a reply saying that the aforesaid section had decided in conformity with the opinion of the prosecuting attorney, and for the same reasons expressed in its answer of the 27th of last December, that the court lacks jurisdiction to decide upon the petition made in my note of the 13th of January, by reason of it having submitted the appeal of Mr. Sanguily, now pending, to the supreme court against its decision.

Thereupon, not having been able to obtain from the superior court either a copy of the record of the trial or a statement of the facts with citation of the law upon which the judge of instruction of the Cerro district of this city had founded his order of indictment and imprisonment in the case, I then addressed, on the 24th of January, a note to Mr. Miguel F. Viondi, the advocate of Mr. Sanguily, asking him to please (1) inform me of the reasons upon which the order of indictment and imprisonment of Mr. Sanguily is founded, and also (2) if I could legally obtain an authenticated copy of the trial and of the said order of the indictment and imprisonment.

The answer of Mr. Viondi, dated January 25, 1896, is herewith accompanied as inclosure 9; and inclosure 10 is a translation of the order of indictment to which Mr. Viondi refers in his answer, as it appeared in *La Discusion* of the 1st of December last.

Again, on receiving your telegraphic instruction of the 25th ultimo, directing me to apply for permission to examine and copy the record, and, if granted, to have same copied for transmission to the Department, I addressed another note in this sense, on the same date, to the president of the superior court, a copy and translation of which is also accompanied herewith as inclosure No. 11. This note was acknowledged on the 27th ultimo, as per inclosure No. 12, and answered by his honor on the 4th instant, reiterating the refusal on the grounds of the lack of authority of the court in the matter, especially as Mr. Sanguily had appealed to the supreme court of Spain at Madrid, and because, as further affirmed, this consulate-general is neither a party to nor has any intervention in the case.

In brief, this correspondence shows—

First. That the superior court of Habana refuses, alleging the lack of jurisdiction therefor, and because the case has been appealed, to furnish a copy of the record in question for the information of the Government of the United States, the other party to the treaty of the 27th October, 1795, and of the protocol of the 12th January, 1877; postulating further that this consulate-general, from not being a party to the case, has no right of intervention in it.

Second. That the advocate for Mr. Sanguily, Mr. Viondi, is of the opinion that the court is authorized to furnish a copy of the record in this case in the same way as it is authorized, alike with other courts to furnish copies and extracts of proceedings needed as evidence in other cases; also that the order of indictment and imprisonment issued by the civil judge has been based upon the proceedings of the court-martial.

It appears therefore that the proceedings had by the superior court of the said jurisdiction in the trial and condemnation of Sanguily are but the continuation of the proceedings initiated against him by the court-martial, against which this consulate general protested before the Governor-General by order of the Department of State on the 25th of last April, copy of which protest is annexed herewith as inclosure 14.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

FOREIGN RELATIONS.

[Inclosure 1 in No. 2756.—Translation.]

*Mr. Williams to Mr. Pulido.*UNITED STATES CONSULATE-GENERAL,
Habana, December 20, 1896. (1895?)

EXCELLENCY: My Government being desirous of obtaining an authenticated copy of the record of the trial of Mr. Julio Sanguily, an American citizen, on the charge of rebellion, instructs me to ask for it; therefore I beg your excellency to please order that a copy be furnished me for the purpose aforesaid.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 2 in No. 2756.—Translation.]

*Mr. Pulido to Mr. Williams.*SUPERIOR COURT OF HABANA,
OFFICE OF THE PRESIDENCY,
Habana, December 20, 1895.

SIR: On acknowledging receipt of your attentive official letter of this date, in which you are pleased to ask for a certified copy of the proceedings in the trial of the American citizen, Mr. Julio Sanguily, on the charge of rebellion, for the purpose of giving an account of the same to the Government of your nation, I have the honor to inform you that this presidency has ordered its transfer to the third section of the hall for the trial of criminal cases of this court having cognizance of the case for the decision it may deem proper, signifying to you at the same time that the proceedings in the case have not terminated, since the appeal interposed by the accused to the supreme court for error of procedure and infraction of the law has yet to be heard.

JOSÉ PULIDO.

[Inclosure 3 in No. 2756.—Translation.]

*Mr. Williams to Mr. Pulido.*UNITED STATES CONSULATE-GENERAL,
Habana, December 23, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's communication of the 20th instant, informing me that my solicitation had been referred for answer to the third section of that worthy court. I have now to beg your excellency to inform the section that my Government desires an authenticated copy of the record of the trial of Sanguily for the purpose of comparing and of satisfying itself, in the exercise of its right as one of the two contracting parties, if the proceedings have been in accordance with article 7 of the treaty of the 27th of October, 1795, and the protocol of the 12th of January, 1877, interpreting it.

I am, etc.,

RAMON O. WILLIAMS, *Consul-General.*

[Inclosure 4 in No. 2756.—Translation.]

Mr. Pulido to Mr. Williams.

HABANA, December 27, 1895.

SIR: Your attentive communications of the 20th and the 23d instants, soliciting a certified copy of the proceedings in the trial of Mr. Julio Sanguily, having been referred to the third section of the hall of criminal cases, the latter has dictated the following decree:

"HABANA, December 26, 1895.

"Whereas on the 2d instant sentence was declared in this cause condemning Mr. Julio Sanguily y Garit to perpetual imprisonment with chain and corresponding additional penalties and payment of costs as principal (autor) in the crime of rebellion;

"Whereas that on notifying the sentence to the solicitor of the prisoner he presented a writing interposing an appeal to the supreme court, founded on error of

procedure and on infraction of the law, and that the first of these recourses was admitted, by the decree of the 16th instant, and the announcement of the second was acknowledged;

"Whereas the military judge of instruction in the cause against D. Jose Azcuy Miranda addressed a communication to the judge of the court of the Cerro district asking for the fragments of the appointment of colonel extended in favor of Azcuy now attached to these proceedings;

"Whereas the consul-general of the United States has solicited of the presidency of the court an authenticated copy of the cause, manifesting that the object proposed by his Government is to examine the proceedings thus far had by the court of instruction and by the superior court;

"Whereas the prosecuting attorney has reported in the sense that the hall lacks jurisdiction to decide upon the solicitation of the consul and that the petition of the judge of instruction encharged with the case against D. Jose Azcuy can not be acceded to for the reason that the process is not yet terminated, and because of the (expert) caligraphic examination of the document claimed is the subject of an appeal for error of procedure before the supreme court:

"Therefore, and regardless of the fact that this case is far from terminated, being at present subject to appeal upon alleged error of procedure, it is clear, the appeal having been admitted by this court, that this hall lacks jurisdiction to pass on the solicitation of the consul of the United States and that of the Captaincy-General in the communications already mentioned. Therefore, in conformity with the report of the prosecuting attorney, it is declared there is no reason for the remission of the copy of the record solicited by the consul of the United States, nor for the return of the document solicited by the Captaincy-General, and with the insertion of this decree it is ordered that the consul of the United States and the Captaincy-General be answered accordingly. It was ordered and signed by the judges of the hall, to which I certify.

"JOSE PULIDO.

"FRANCISCO PAMPILLON.

"FRANCISCO NOVAL Y MARTI.

MANUEL R. HERNANDEZ."

"By order:

And I have the honor to transmit the above to you in reply to your aforementioned communication.

JOSE PULIDO.

[Inclosure 5 in No. 2756.—Translation.]

Mr. Williams to Mr. Pulido.

UNITED STATES CONSULATE-GENERAL,
Habana, January 13, 1896.

EXCELLENCY: By order and for the information of my Government, I beg your excellency to please inform me of the facts, with citation of the law, upon which the judge of the civil jurisdiction has founded the indictment and imprisonment of the American citizen Mr. Julio Sanguily; and, if possible, my Government will be pleased if your excellency would order a full and literal copy of the proceedings to be furnished for transmission to it.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 6 in No. 2756.—Translation.]

Mr. Pulido to Mr. Williams.

SUPERIOR COURT OF HABANA,
OFFICE OF THE PRESIDENCY,
Habana, January 14, 1896.

SIR: I have the honor to acknowledge the receipt of your attentive communication of the 13th instant, in which you ask to be informed of the facts and of the law upon which the indictment and commitment to prison of the American citizen, Mr. Julio Sanguily y Garit, are founded, manifesting to you at the same time that I have ordered a copy of your said communication to be sent to the third section of the hall for the trial of criminal cases of this superior court for its action in the matter.

JOSE PULIDO.

[Inclosure 7 in No. 2756.—Translation.]

*Mr. Pampillon to Mr. Williams.*SUPERIOR COURT OF HABANA,
Habana, January 20, 1896.

SIR: Your communication of the 13th instant, soliciting to know the facts and the law upon which the indictment and order of imprisonment of Mr. Julio Sanguily y Garit for rebellion are founded, having been referred to the third section of the hall for the trial of criminal cases, the latter has decided, in conformity with the prosecuting attorney and for the same reasons expressed in the answer of the 27th of last month, that it lacks jurisdiction to decide upon the petition you made in your said communication—that is, because of it having admitted the right of Mr. Julio Sanguily to appeal to the supreme court against the sentence given in his case.

The above is hereby communicated for your information and other effects.

I am, etc.,

FRANCISCO PAMPILLON.

[Inclosure 8 in No. 2756.—Translation.]

*Mr. Williams to Mr. Viondi.*UNITED STATES CONSULATE-GENERAL,
Habana, January 24, 1896.

DEAR SIR: As you are the advocate of Mr. Julio Sanguily, please inform me the reasons upon which are founded his indictment and imprisonment; and likewise, if I could, legally, obtain a copy of the record of his trial, and of the order of the judge for his indictment and imprisonment.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 9 in No. 2756.—Translation.]

*Mr. Viondi to Mr. Williams.*HABANA, *January 25, 1896.*

SIR: In your letter of yesterday you are pleased to ask me, as advocate that I am of Mr. Julio Sanguily, the reasons upon which his imprisonment and trial are founded, and besides if legally you could, as consul of the United States, obtain copy of the record of his trial or of the order of his indictment and imprisonment.

To your first question I reply as follows: The proceedings had by the military jurisdiction having been remitted to the civil judge, in accordance with the protocol, the latter without taking any action appropriate to his jurisdiction dictated the order of indictment and of imprisonment.

On founding the indictment, as result of the facts, he affirms that the military jurisdiction has cognizance of the cause, and that it has remitted copy of the proceedings in order that the ordinary or civil courts take cognizance of the said crime so far as it relates to American citizens.

In declaring the legal grounds of the indictment, the civil judge declares that in the antecedents and other data that appear in the proceedings remitted to him by the court-martial there appear rational indications of criminality against Mr. Julio Sanguily as responsible as principal (autor) of the crime of rebellion.

On this ground the civil judge founded his order for the indictment of Sanguily. And in this same order he adds: "In view of the grounds of his indictment, and in consideration of the penalty that the law imposes on the crime in question, the provisional imprisonment of Mr. Julio Sanguily is hereby ordered."

From the above statement you will see that the order of indictment and of imprisonment of Mr. Julio Sanguily is founded solely, exclusively, on reasons that appear in the proceedings remitted to the civil court by the court-martial; that is, on what is prohibited by the protocol. In confirmation, I accompany a full copy of the order of indictment.

To your second question, that is, if you can, as consul-general, legally obtain copies of the record or of the order of indictment and of imprisonment, I have to say that you can legally obtain it. For although it is true that the defense of Sanguily has presented an appeal, which has been accepted, to the supreme court at Madrid, it is only against the sentence; but the record of the trial has remained deposited in the superior court of Habana, and though the latter has no authority to alter, modify, transfer, etc., the proceedings had thus far in the case, still it has authority for the issuance of copies of the full, or of parts, of the proceedings. A certified copy of the

record has been transmitted to the supreme court, as I have informed you, but the original record remains in Habana. Therefore, if you, in Habana, in representation of your nation, should solicit a copy of it for your Government, in order that it may see if the protocol has been faithfully observed, this could not in justice be refused you; likewise, a copy of it should not be refused for the direct inspection of your Government.

This is not a question of jurisdiction. It would be so were you to propose some modification of the record. Then the court would tell you, with reason on its part, that it has no jurisdiction, because it would be a matter for the decision of the supreme court at Madrid.

But to see what has been done by the superior court of the province of Habana is in nowise opposed to its jurisdiction.

You ask for a copy of what already exists, and if the original from which the copy is to be taken, to which your Government has the right under the protocol, is in the archives of the superior court of Habana, the latter ought to issue the copy solicited, because solely it has jurisdiction in the case, and because it alone, and not the supreme court at Madrid, has possession of the record. The superior court of Habana is authorized not to permit any change or modification tending to alter the sense of the record, but not to prevent the seeing of what has been done by the same court or by the judge of instruction. If you, with or without a copy, should solicit anything which would change the face of the record, then the superior court of Habana could tell you that it has no authority or jurisdiction to grant your request, since its mission had terminated. But with jurisdiction or without it the court can legally order the issuance of a copy to you of the record as it now exists, for this in nowise changes the proceedings as realized; neither is there any law prohibiting the court to comply with such a request, and the following example confirms it: Suppose that in a suit carried on in a court of first instance, or in the superior court itself, one of the parties in the suit should ask for a copy of an original document in the case against Sanguily. The judge of first instance would at once send a communication to the superior court soliciting the copy, which with all certainty would be furnished by the superior court, since such act in nowise changes the state of the record, the only thing that is forbidden. Therefore, if this is true, the same applies to the case about which you consult me. For this copy does not change the record nor alter the state of the cause, for you limit yourself to the ascertaining and to the knowing, as representative of your nation, as contracting party with Spain, by the treaty, of what has been done in the trial. Were it not as I inform you, neither would you be allowed to see the record of the trial of Sanguily. For the copy that you ask for only signifies the wish of your Government to see the record, and not being able to do this, practically, it demands a copy of it to realize its just desire.

In fine, the issuance of copies of what has been done in a suit is not opposed to the fact of appeal to the supreme court because the copy given does not in any manner affect the state of the cause.

Therefore, I believe you can legally solicit a copy of the record or of the indictment without the superior court of Habana having to refuse it, because the point does in nowise lessen the jurisdiction of the supreme court. There is no existing law prohibiting the furnishing of such copies by the superior court. Your second question is herewith answered.

I am, etc.,

MIGUEL FRANCISCO VIONDI.

[Inclosure 10 in No. 2756.—Translation.]

ORDER OF INDICTMENT.

Acknowledging the receipt of the proceedings sent by the senior judge of this cause, and in view of the reasons stated in the opinion of his honor the judge-advocate (auditor de guerra), on folio 55 and over, the cognizance of the same is accepted in what refers to American citizens; and to this effect let these proceedings be filed in the corresponding book, with notification of the acceptance and of the initiation of the cause to the hall for the trial of criminal cases and to His Majesty's prosecuting attorney.

Whereas, on the morning of the 24th of February last, by reason of antecedents and of information furnished by the secret service, the arrest was made on executive order of several individuals seriously compromised in an intended separatist movement, and a party having, on the morning of the same day, risen in open rebellion outside of this province under the cry of independence, and of which cause the military jurisdiction is taking cognizance, and has remitted the certified copy of the proceedings for the cognizance of the ordinary courts in the said crime in whatever therein relates to American citizens:

Therefore, considering that these acts are invested with the character of the crime of rebellion defined in article 237 of the criminal code, and that from the antecedents

and facts stated in the proceedings remitted by the said military jurisdiction there appear rational indications of criminality against Mr. Julio Sanguily y Garit and Mr. José Maria Aguirre y Valdés as responsible of the said crime as principals (autores)—

In view of articles 384 and 503 of the law of criminal procedure his honor said he ought to order and did order the indictment of the said Mr. Julio Sanguily y Garit and Mr. José Maria Aguirre y Valdés, and that the accused be heard in all the successive steps of the trial.

In accordance with the grounds of the indictment, and in consideration of the penalty which the law imposes on the crime in question, the provisional imprisonment is ordered with outside intercourse of the said Mr. Julio Sanguily y Garit and Mr. José Maria Aguirre y Valdés, informing them thereof, and issuing the corresponding writs to the chiefs of the penal establishments where they are, and if this order does not appear in the proceedings let an attentive communication be addressed to the Captain-General asking him to please issue the necessary instructions placing the accused as prisoners at the disposal of this court and the results of this examination, informing the accused of the right the law grants them to ask for the reconsideration of this order within the legal term, and for the appointment at once of advocates and solicitors for their defense in this cause, of which timely account must be given by the acting judge. Require the accused to give security for 50,000 pesetas each, for the purpose of securing their pecuniary responsibility against the amounts that in due season may be decided against them, and in case of their failure to give security their property must be attached therefor in legal form. Bring to the proceedings the penal and carceral antecedents, and this done, give account for the ordering of whatever may be required hereto.

Ordered and signed by the judge of instruction of the Cerro district. I attest.

EUGENE LUZZARRETA.

ANTONIO ALVAREZ INSUA.

[Inclosure 11 in No. 2756.—Translation.]

Mr. Williams to Mr. Pulido.

UNITED STATES CONSULATE-GENERAL,

Habana, January 25, 1896.

EXCELLENCY: Having communicated to my Government the order of the third section of that worthy court in regard to the copy of the trial of the American citizen Mr. Julio Sanguily, I have received to-day a telegram from the Department of State of the United States ordering me to ask permission of your excellency to examine the cause and take a copy of it for its information.

And in obedience to the order of my Government, I beg your excellency to please order that I be allowed to examine said cause and take a copy of it for the purpose indicated.

I am, etc.,

RAMON O. WILLIAMS,
Consul General.

[Inclosure 12 in No. 2756.—Translation.]

Mr. Pulido to Mr. Williams.

SIR: On acknowledging receipt of your attentive official letter of the 25th instant, in which you are pleased to ask of this presidency to be authorized to examine and take copy of the proceedings in the trial of the American citizen, Mr. Julio Sanguily, as ordered in a telegram sent you by the Department of State of the Government of your nation, I have the honor to inform you that I have referred the same under this date to the third section of the hall for the trial of criminal cases of this superior court having cognizance of this case for the reply that it may deem proper.

JOSÉ PULIDO.

[Inclosure 13 in No. 2756.—Translation.]

Mr. Pulido to Mr. Williams.

HABANA, January 4, 1896.

SIR: The first section of the hall for the trial of criminal cases of this superior court informs this presidency as follows:

"The first section of the hall for the trial of criminal causes, over which I have the honor to preside, has agreed, in conformity with the solicitation of the prosecuting attorney, that there is no reason for the granting of permission to the consul-general of the United States for the examination of the record in the trial of Mr. Julio Sanguily for rebellion, and that the communication of your honor, dated the

27th ultimo, be answered in this sense, with insertion of the opinion of the prosecuting attorney, which reads as follows:

"To the Hall:

"The prosecuting attorney says that the consul of the United States in a communication addressed to his honor the president of the court under date of the 25th instant solicits from the hall, by order of his Government, permission to personally examine the record of the trial of Mr. Julio Sanguily y Garit for rebellion, and for the taking of a copy of the same for transmission to his Government. In reality this petition is identical to the one formulated by the same consul on the 23d of December last, and upon which the opinion of this office was given on the next day with the order of the 26th of the same month, solely with the difference that the copy then asked of the record was to be given by the court and now that its consent is asked for the consulate to make the copy; and in the opinion of the prosecuting attorney, as he then expressed, the hall lacks authority to furnish the copy or to deliver a record of proceedings to anyone not a party thereto or having intervention therein. At all times it would be impossible to accede to such pretension, but now the more so because of the jurisdiction of the court over the proceedings having ceased by reason of the same having been appealed to the supreme court, as also expressed in the aforesaid order of the 26th of December last. For those reasons the prosecuting attorney is of the opinion that the hall should dismiss the new pretension formulated by the consul of the United States. The hall will decide.

"ENJUTO,

"Prosecuting Attorney.

"Habana, January 30, 1896.

"The above is herewith referred to your honor for the corresponding effects."

Therefore, I have the honor to transmit you the preceding in answer to your attentive official note of the 25th of last month.

JOSÉ PULIDO.

[Inclosure 14 in No. 2756.]

Mr. Williams to the General in Charge.

UNITED STATES CONSULATE-GENERAL,
Habana, April 25, 1895.

GENERAL: Notwithstanding the decree issued on the 16th of March last by his excellency the Governor-General of this island, inhibiting the military jurisdiction of the cognizance of the case of the American citizen, Mr. Julio Sanguily, and ordering its transfer to a court of the civil jurisdiction in strict observance of the agreement of the 12th of January, 1877, nevertheless, I am informed by his advocate that he has again been subjected to a court-martial, by order of the military jurisdiction, this time, on a charge alleged to be related to the kidnaping last year of Mr. Fernandez de Castro; and in consequence this American citizen has been again remanded into solitary confinement and deprived of all intercourse with his counselor by order of the court-martial.

This proceeding on the part of the military jurisdiction is not only an infraction of the agreement, but it is likewise in contradiction of the said decree of the 16th of March last of his excellency the Governor-General of this island.

I have, therefore, and in compliance with the instructions of my Government, to ask your excellency to have the goodness to order that this second case against this American citizen be also transferred to the civil jurisdiction for trial, as his excellency the Governor-General was pleased to order in the first case; and also by order of my Government to enter its most formal protest before the Government of this island against any delay in the transferring of this second cause against Sanguily to the civil jurisdiction; as likewise to protest against all proceedings hitherto practiced, or that may hereafter be practiced, in this case by the court-martial now trying this American citizen, because they are in clear contradiction of the said agreement between the two nations.

I have, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Rockhill to Mr. Williams.

No. 1265.]

DEPARTMENT OF STATE,
Washington, February 20, 1896.

SIR: I have received your dispatch No. 2756, of the 6th instant, relative to your inability to obtain a certified copy of the record of the trial of Mr. Julio Sanguily.

In reply you are informed that our minister at Madrid was instructed by telegraph on the 18th instant to ask the Royal Government for a copy of the record referred to.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary of State.

Mr. Rockhill to Mr. Williams.

No. 1273.]

DEPARTMENT OF STATE,
Washington, February 28, 1896.

SIR: Referring further to the case of Julio Sanguily, I inclose for your information translation of a letter addressed to this Department by his brother, Manuel Sanguily, of Brooklyn, N. Y., in relation to current rumors that the prisoner's life is in danger. It seems proper to thus apprise you of the apprehension felt by Mr. Sanguily's friends and to call upon you for a report in regard to his treatment in prison.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary.

[Telegram.]

Mr. Rockhill to Mr. Williams.

DEPARTMENT OF STATE,
Washington, February 28, 1896.

Cable as to health and welfare Sanguily. His friends apprehensive.

[Telegram.]

Mr. Williams to Mr. Rockhill.

HABANA, *March 2, 1896.* (Received 3.15 p. m.)

Accompanied by Dr. Burgess, I passed an hour yesterday at the fort with Sanguily, finding him cheerful and very content with his treatment and not wishing to change quarters, and desiring his friends to be informed that, while longing for his freedom, he entertains no apprehension for his personal safety. Dr. Burgess reports to me officially that from examination of his circulation, temperature, and tongue, as also from his own statements, that his physical condition and health are good, with exception of some rheumatism, seemed to be of the muscular variety.

Mr. Williams to Mr. Rockhill.

No. 2809.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 7, 1896.

SIR: I have the honor to acknowledge the receipt of your instruction No. 1273, of the 28th ultimo, in relation to the current rumors purporting that the life of Mr. Julio Sanguily is in danger, and inclosing a copy of

a letter of his brother, Mr. Manuel Sanguily. In reply I beg to confirm my telegram addressed to you on the 2d instant, and now present in addition the following remarks:

On the day and the moment of the receipt of your telegram of the 28th ultimo (Friday) a violent storm prevailed, and that on Saturday, the 29th, we had to dispatch the consular business of two steamers for the United States. These circumstances prevented me from going to Fort Cabañas, where Mr. Julio Sanguily is confined, till Saturday, the 1st instant, and the next day I sent you a telegraphic report of the facts as I ascertained them in conversation with him. I have also to add that his quarters are such as are furnished there to the army officers, and are occupied by himself and his son who keeps him company, the latter freely going and coming. His treatment in this respect is exceptionally good, for each of the adjoining rooms are occupied by several persons. The commander of the fort, General Suero, makes frequent friendly visits to him. And lastly, he not only said that he had no apprehension for his personal safety, but he expressed himself as fully appreciative of the kind treatment given him by the authorities.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

Mr. Williams to Mr. Rockhill.

No. 2812.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 10, 1896. (Received March 14.)

SIR: I have the honor to submit a translation and copy of a letter addressed to me on the 6th instant by Mr. Miguel Francisco Viondi, advocate, memorial, and other documents pertaining to the cause of Mr. Julio Sanguily, which I forward herewith to the Department, in compliance with the desire of this gentleman.

Respecting that part of Mr. Viondi's letter telling me that Mr. Sanguily also encharges him to ask me to inform the Department as to the certainty of the facts related by him—that is, regarding (1) the law of 1821 in its application to his cause and (2) of its inobservance in the procedure under which he has been tried by the courts of Habana—I have to say that this office being purely consular or commercial, and not judicial, it seems as out of place for it to analyze the proceedings of those courts, and the more especially since the Department has its own law officer in the person of its Solicitor, with the right, furthermore, to consult the Department of Justice, and to each of whom the facts of the case can be referred should the honorable Secretary of State or his assistant so desire it.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Inclosure 1 in No. 2812.—Translation.]

Mr. Viondi to Mr. Williams.

HABANA, March 6, 1896.

DEAR SIR: My client, Mr. Julio Sanguily, has sent me to-day the accompanying protest, memorial, and documents for delivery to you, with the request that you have the goodness to forward them to the Department of State.

He encharges me also to ask you to inform the said Department as to the certainty

of the facts related—that is, first, in regard to the law of 1821, and, second, of the fact of that law not having been observed in his trial, as agreed between the United States and Spain under the protocol of 1877, but that instead he has been judged according to the law of oral trial of the year 1889.

As the advocate of Mr. Sanguilly, I assure you that the protocol has not been complied with in his trial, since he has not been tried in accordance with the law of 1821.

Mr. Sanguilly recommends me especially to say to you that, in his opinion, the fact of this violation constitutes the real reason for which the superior court of Habana founded its refusal to furnish you with a copy of the record of his trial.

With expressions of the most distinguished consideration, etc.

MIGUEL FRANCISCO VIONDI.

[Inclosure 2 in No. 2812.]

Mr. Sanguilly to Mr. Williams.

SIR: I, Julio Sanguilly, imprisoned in the Cabaña Fortress for the supposed offenses of rebellion and kidnaping, appear before you to protest of the unjust imprisonment suffered and the concluded violation, victim in both charges.

In the first I have been sentenced by only five judges. Have been indicted and put in prison by virtue of a warrant founded in the circumstantial evidence of the process originated before the military jurisdiction.

Besides, I have been subjected to a new trial by the civil authority, which is not in accordance of the protocol of 1877.

According to that protocol the law of procedure that has to be applied to the citizens of the United States is the one of April 17, 1821.

That law directs from articles 19 to 23 an especial procedure, by virtue of which every act of the process must be with the consent of the defendant's counsel. Article 23 says that the witnesses must testify in the presence of the defendant and his counsel.

Article 24 says the presiding judge must pronounce sentence.

Article 25 says that after sentence has been pronounced the case must be carried to the (audiencia) and the parties to be heard there again (article 28) pronouncing definite sentence within the third day by six judges.

Laying aside the warrant of process and imprisonment founded in the facts of the case originated before the military jurisdiction, the undersigned could never have been tried by oral process, because the protocol of 1877 objects to it, and says that the citizens of the United States can not be tried only by the law of April 17, 1821, with entire publicity regarding the witnesses, who have to testify in the presence of the defendant's counsel, who can make any remarks he may deem necessary, first pronouncing sentence by the judge, and then with new proof by the audiencia, and that composed of six judges (article 27).

The exponent has had only one sentence, by virtue of a law that is not applied, and that sentence has been pronounced by the audiencia, composed of five judges, sentencing to perpetual chain.

Article 2 of the protocol has reference to the law of April 17, 1821, and also articles 4 and 5, all in reference to the citizens of the United States.

Such is the law in force regarding citizens of the United States. And the general consulate objected against military jurisdiction, the one subjected by the exponent. The Captain-General acceded to the demand of the general consulate by merits directed in article 1 of said protocol.

Though another Spanish law may have been promulgated following that of 1821, it is not possible to lay aside without the accord and consent of the United States of the one particularly determined in the protocol, i. e., the citizens of the United States must be tried by the law of April 17, 1821, more advantageous than by secret process, by which the Spanish subjects are subjected to.

The law of 1821 also demands proofs in order to convict, and the Spanish law in force, or say that one of the oral process, authorizes the laying aside of the proofs and the conviction or discharge, only in conscience of the judges. And the conscience of the judges of the Spanish tribunal toward the undersigned is not a guaranty sufficiently impartial, taking into consideration the political offense and the important part taken by the undersigned in the last war.

In the case of kidnaping, as in the previous one, the protocol and law of April 17, 1821, is not applied and is substituted by the oral process.

The exponent has not consented to the law that has been applied—

In the first place, because the treaty has a public character and can not be renounced individually; in the second place, because it designates an obligation of the Spanish Government which has to be fulfilled; in the third place, because, as it appears in this case, did not know the existence of a law that favored me so much, an ignorance

that can not be imputable to the Spanish authorities, necessarily cognizant of the treaty, which did not wish to apply in prejudice to a citizen of the United States; in the fourth place, because the Spanish criminal law, in article 8, declares that the criminal jurisdiction can never be prorogued.

Then it can not be said that the undersigned has been submitted to a criminal jurisdiction, which does not belong to him, proroguing to that jurisdiction his own.

The undersigned does solemnly swear, in the name of the Almighty God, that, until now, did not know the existence of the law of 1821, and being imprisoned since February 24, 1895, and sentenced in one of the cases, by virtue of a law to which is not submitted, but excluded by the protocol of 1877, appears before his consul with the present protest, against the arbitrary and violation of the law of which is a victim, that through the representative of his nation may be elevated to the United States Government, so that it may obtain the immediate liberty of one who is suffering imprisonment illegally and has already been sentenced unjustly, and besides that I demand from the Spanish Government an indemnity in the sum of \$500,000, damages caused by the said Government in depriving me of my liberty arbitrarily decreeted and against the solemn law of treaties.

At the date of this protest and claims of damages the undersigned has already suffered one year and eleven days of illegal imprisonment in a fortress.

So the United States Government can not consent that, contrary to the expressed laws, a citizen of his nation be deprived in such a manner of his own liberty by a foreign Government.

JULIO SANGUILY.

CABAÑA FORTRESS, March 6, 1896.

Memoir presented to the United States Government by Julio Sanguily, a citizen of same, demanding his liberty and indemnity of the Spanish Government for reason of the unjust imprisonment of which he is the victim.

The treaties and protocols in force between the United States of America and Spain relating to its citizens and subjects are laws.

The first treaty in the chronological order is that of 1795. That treaty was ratified in 1819 for another one, with exception of articles 2, 3, 4, and 21 and the second clause of the twenty-second.

The seventh clause of the treaty of 1795 remained, therefore, in force. Said clause says: "That the citizens of the United States shall be granted free access to all judicial procedures and to be present at all hearings and examinations relating to same."

As that clause was not sufficiently clear, several conferences were had between the minister plenipotentiary of the United States at Madrid and the minister of state of His Majesty the King of Spain, agreeing definitely in 1877 to sign on the 12th of January of said year the protocol, which, according to its preamble, has for its object the following: "To terminate amicably all controversy as to the effect of existing treaties in certain matters of judicial procedure and to make declaration on both sides as to the understanding of the two Governments in the premises and respecting the true application of said treaties."

That protocol has been signed by the Hon. Caleb Cushing, for the United States, and by His Excellency Señor Dn. Fernando Calderon y Collantes, minister of state of the Spanish Government. The president of the cabinet, His Excellency Señor Dn. Antonio Canovas del Castillo, confirming same and communicating it to the Governor and Captain-General of Cuba through a royal order.

Said protocol ends with the following words: "In order to give the Government of the United States the completed security and good faith of His Majesty's Government in the premises, command will be given by royal order for the strict observance of the terms of the present protocol in all the dominions of Spain, and specially in the Island of Cuba."

The exponent was indicted by military jurisdiction in two cases—one for the rebellion and the other for kidnapping. The consul-general of the United States demanded immediately of the Spanish authorities, and referring to article 1 of the protocol of January 12, 1877. The Spanish authorities, recognizing the justice of that demand, consented that the case would pass to the civil jurisdiction.

This action of the Spanish Government in the Island of Cuba proves that they recognize the protocol, because the first of its clauses was fulfilled. But the Spanish Government has not recognized all the other clauses of the protocol, having violated them, and the exponent goes to prove it.

All the protocol is united to the law of April 17, 1821. That law has never been applied to Spanish subjects in the Island of Cuba. It is an especial law of Spain, and if it was published in Cuba in *El Diario del Gobierno Constitucional de la*

Habana, dated July 10, 1821, was a new reference; and so it is that article 37 of same declares that the dispositions of that law as understood are limited to provinces of Spain and adjacent islands.

The mentioned law of April 17, 1821, was never a law in Cuba for the Spanish subjects. But the Spanish minister by common consent with that of the United States having selected it exceptionally, to proceed and resolve only when concerning to citizens of the United States.

In accordance with the treaties, the citizens of the United States condemned by the Spanish authorities in criminal cases must be subjected to the especial law exclusive of any other law.

Examining now the protocol of 1877, said protocol having been fulfilled by the Spanish Government only in the first clause. Article 2 refers to those who may be arrested or imprisoned by order of the civil authority for the effects of the law of April 17, 1821.

Article 3 refers to those who may be taken with arms in hand, mentions as law for the citizens of the United States, adding: "In conformity with the provisions of articles 20 to 31 of the same law."

Those articles from 20 to 31 direct that the trial must be public, the witnesses testify in public in the presence of the accused or counsel; that the counsel or the accused can make observations or examine the witnesses; that after the evidence the counsel in any expose to the judge all he may deem convenient to his client, and after the counsel has been heard the judge may pronounce sentence.

The sentence pronounced by the ordinary judge shall be referred to the *audiencia* of the judicial district in accordance to article 5 of the protocol, referring again to the law of April 17, 1821, and before the *audiencia*, according to this law, the citizens of the United States can present new evidence, and his counsel speaking afterwards the *audiencia* composed of six judges, among them necessarily the president, shall pronounce sentence lastly.

The law of April 17, 1821, which the protocol guarantees, has not been conceded to the exponent and has been condemned by another law, in which the process has been secret, the witnesses have not testified in the presence of the accused or his counsel and has been subjected to oral process, where there is only one sentence, having been pronounced by five judges and not by six as the law of April 17, 1821, requires.

Has already been condemned in one of the cases and the other is being finished in the same manner.

Besides, in the oral process, conviction can be agreed without process at the conscience of the judges, and the law of April 17, 1821, says, "That the crime charged in the indictment must be fully proved."

The exponent is suffering imprisonment in a military fortress nearly twelve months, for reason of a law not included in his case, therefore violating the agreement of the treaty, or protocol.

Moreover the imprisonment is founded in the facts and antecedents instituted in the case by the military jurisdiction, where the cases were initiated.

In the protest accompanied with this exposition swore in the name of Almighty God not to know the law of April 17, 1821, a law that protected him so much, and now repeats the same solemn oath. Therefore invokes in the name of justice that the liberty taken from him so arbitrarily be restored immediately.

Besides the damages caused by the privation of his liberty, add the injury caused his honor, charging him with the infamous crime of kidnaping, a charge of which he is entirely innocent; and said charge had been published in the newspapers on several occasions.

The two newspapers inclosed, *La Lucha* and *Diario de la Marina*, having the largest circulation in Cuba, published to the injury of the exponent his complicity in the case of kidnaping, instituted against him by the mystery of a secret process.

The imprisonment and the case of kidnaping have been realized, applying to him a law of which he was excepted by virtue of a treaty between the United States and Spain.

How much is the damages value?

The nation that breaks a treaty to imprison conveniently a foreign subject exempted by a law of said treaty and subjects him to an inquisitorial proceeding by which he is dishonored through the infamous and repugnant nature of the crime charged him, such nation is obliged to pay the damages occasioned so arbitrarily.

The exponent estimates the damages caused by privation of his liberty and his honor, the two most valued treasures of the human being, in the sum of \$500,000.

It must be taken also into consideration that the exponent, besides suffering imprisonment since February 24 of last year, has been incommunicated during twelve days, thus separated from his family and the world; that cruel and arbitrary incommunication was not even ordered by the civil authority, but by the military jurisdiction, an authority twice unqualified—first, because it was a military authority prohibited

by the treaty, and, second, because the incommunication was effected contrary to the law of 1821.

The inclosed copy of protest of the consul-general of the United States, dated April 5, 1895, confirms the above fact.

From the prison he claims justice from the Government of his nation and invokes in the name of said justice and the law of treaties to demand of the Spanish Government his immediate liberty and also the immediate payment of the indemnity lawfully claimed.

In order that the Government of the United States may have full knowledge of the case, inclosed is copy in Spanish of the law of April 17, 1821; also copy in English of the Cushing-Collantes protocol, which refers to the former law.

Confirming the facts mentioned in the protest and memoir, the Spanish tribunal that passed the sentence for rebellion did not consent to send to the United States Government authenticated copy of the process and imprisonment, refusing previously that the consul-general of the United States should examine the case; and that opposition of the Spanish authorities was because they did not wish that the United States Government should be aware of how the treaty of 1877 had been violated, not having observed the procedure of the law of April, 1821, notwithstanding the cases against the accused had been transferred to the ordinary tribunal, that in the procedure the rules of the treaty should be observed.

And it can not be any other reason founded by the refusal of the judicial authorities that the United States Government should see the cases mentioned.

There can not be any ignorance alleged on the part of the Spanish tribunal.

No tribunal ignores the laws of its country; therefore everything has been the work of bad faith.

JULIO SANGUILY.

HABANA, *March 6, 1896.*

Mr. Williams to Mr. Rockhill.

No. 2847.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 30, 1896.

SIR: I have the honor to report to the Department, on information received from Mr. Viondi, the advocate, that the military court having under its investigation the charges against Mr. Julio Sanguily and some twenty others for participation in the kidnaping of Mr. Antonio Fernandez de Castro by the bandit Manuel Garcia on his plantation near the towns of Bainoa and Aguacate in the year 1894, has quashed all these cases. They are still pending, however, before the civil court.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Telegram.]

Mr. Williams to Mr. Rockhill.

HABANA, *April 24, 1896.* (Received 4.50 p. m.)

Superior court yesterday quashed charges against Sanguily of being concerned in kidnaping Fernandez Castro.

Mr. Rockhill to Mr. Lee.

No. 13.]

DEPARTMENT OF STATE,
Washington, June 18, 1896.

SIR: The Department being informed that General Suero has been relieved of the command of the Cabaña fortress, you are instructed to ascertain and report upon the condition of the health and welfare under

the new prison management of Julio Sanguily, the citizen of the United States who is at present confined therein, as his relatives in this country are apprehensive that the change in question may be injurious to him, especially as it is reported that Mr. Sanguily's counsel at Habana has been ordered to close his office and advised to leave the island to avoid expulsion.

I am, etc.,

W. W. ROCKHILL,
Assistant Secretary.

Mr. Lee to Mr. Rockhill.

No. 20.]

UNITED STATES CONSULATE-GENERAL,
Habana, June 30, 1896.

SIR: I have the honor to inform the Department that in compliance with instruction No. 13, dated the 18th instant, to ascertain and report upon the health and welfare of Mr. Julio Sanguily, an American citizen confined in the Cabaña fortress, I addressed, on the 25th instant, a communication to the governor and captain-general, asking to be informed in which manner I should be permitted to carry out this instruction of my Government, and also therein touched upon the point of Sanguily's release upon condition of leaving the island.

His excellency has replied that the prisoner is in good health, and that I may visit him, or any other American prisoner under confinement, by giving one day's notice beforehand, so that the prisoner may be in the guardroom nearest to the entrance of the fortress at the time of my visit, which, it is expected, will be at 8 a. m.

With respect to Sanguily's release, his excellency states that he has no authority in the matter, as Sanguily is now exclusively subject to the ordinary or civil jurisdiction. I accompany a copy translation of said communication.

I am informed that there is no truth in the report that Mr. Viondi, Sanguily's counsel, has been ordered to close his office and advised to leave Cuba to avoid expulsion.

I learn from Mr. Viondi that he saw Sanguily last Saturday, and that with the exception of some rheumatism in the shoulder, to which he is subject, his health is good and surroundings comfortable under the circumstances.

I am, etc.,

FITZHUGH LEE,
Consul-General.

[Inclosure 1 with No. 20—Translation.]

The Captain-General of Cuba to Mr. Lee.

ARMY OF THE ISLAND OF CUBA,
CAPTAINCY-GENERAL, OFFICE OF THE STAFF,
Habana, June 28, 1896.

To the Consul-General of the United States of America.

SIR: I have received your communication of the 25th instant, in which, upon informing me that your Government instructs you to ascertain the condition, health, and welfare of the American citizen Mr. Julio Sanguily, imprisoned at the fortress Cabaña, you request me to indicate the form of complying with said instructions; and in answer it affords me pleasure to say that I have no notice that any alteration has taken place in the health of the prisoner, because were it so, and notwithstanding he is at the disposal of the ordinary jurisdiction, he would have been transferred to the military hospital of this capital. However, if you desire to make personally

the investigation referred to, you may call at the above-mentioned fortress for that purpose, notifying the day beforehand this Captaincy-General or the general governor of the fortress direct, so as to order in advance that the prisoner be at the guard-room nearest to the entrance of said fortress, for the object indicated, at 8 a. m. of the day you may appoint, the same form to be practiced whenever you may wish to visit the aforesaid prisoner, or any other American citizen, provided he is not incommunicated (incomunicado).

With reference to the indication of pardon or release expressed in your communication, I have to inform you, supposing exact the statements contained in the note inclosed therein, that from the moment that, in consequence of the agreement made between Spain and the United States by the protocol of the 12th of January, 1877, the trial of Sanguily was transferred to the ordinary jurisdiction from that of war the latter ceased to depend on my authority and he remained exclusively subject to the ordinary courts, which, as I understand, have already dictated a condemnatory sentence; for which reason it is not within my power to determine absolutely anything regarding the pardon or release of the American citizen in question.

God guard you many years.

VALERIANO WEYLER.

Mr. Lee to Mr. Rockhill.

No. 152.]

UNITED STATES CONSULATE-GENERAL,

Habana, September 30, 1896.

SIR: I have the honor to transmit herewith copy of a letter received from Mr. Julio Sanguily, who is still confined in the Cabaña fort.

He seems to be under the impression that this consulate-general should have insisted before the Spanish authorities for his release or pardon under the terms of General Calleja's proclamation of amnesty. This proclamation was dated the 27th February, and its third article offered amnesty (indulto) to all who should surrender within eight days after its promulgation. Sanguily was arrested on the 24th February at his home in this city.

I also transmit a copy of my answer to Mr. Sanguily's letter, informing him that, in the absence of any special instructions, this office had no further intervention in his case, but that I would forward a copy of his letter to the Department of State.

I am, etc.,

FITZHUGH LEE,
Consul-General.

[Inclosure 1 with No. 152.]

Mr. Sanguily to Mr. Lee.

CABAÑA FORTRESS, *September 23, 1896.*

Hon. Gen. FITZHUGH LEE,
Consul-General of the United States of America at Habana.

DEAR SIR: When some time ago I had the pleasure of receiving your courteous visit in this fortress I had the honor of informing you that my case, legally considered, was comprised in the amnesty decreed by General Calleja, as I was arrested at my home on the morning of the 24th of February—that is, on the very day the revolution commenced in this island, and I was immediately after prosecuted.

General Calleja's amnesty comprehended all the revolutionists who would present themselves within eight days following the promulgation; therefore, if the indulto is applicable to those who actually revolted in arms, with regard to those who did not it is of more immediate application because what covers the greater covers the least.

In consideration of your intelligence and energy, I had expected you would have negotiated for my liberation with the Captain-General upon that basis, which is

strictly just; that you would have asked him to apply in my case the general disposition which referred to the revolutionists in arms who would surrender to the authorities on the grounds stated before, viz, that I did less than they, not having arisen in arms, but having been arrested in my house before the execution of any hostile act.

I have waited for a word from you kindly informing me of your efforts in my behalf; and, as you have notified me nothing, I venture to trouble you, requesting, as my right of freedom is evident according to the terms of the indulto, that you insist with the Spanish authorities that I be reinstated in the liberty I have been deprived of, against which act the very text of the amnesty protests.

With the right on your side, there is no doubt you will be heeded by the Spanish authorities; and it does not matter if they plead that I am subjected to judicial proceedings, because all times and circumstances are opportune for the application of indultos, which refer to the moment of imprisonment and its cause; and, moreover, amnesties are gubernamental, and therefore are not subordinated to sentences of the courts, but, to the contrary, such sentences and the foregoing proceedings are made subservient to gubernamental resolutions ordering amnesties.

I beg of you, therefore, to insist upon obtaining from the Spanish Government the application so long delayed already of a benefit that so fully includes me; and, with the greatest consideration for yourself, I have the honor of remaining

Yours, very respectfully,

JULIO SANGUILY.

[Inclosure 2 in No. 152.]

Mr. Lee to Mr. Sangui.

UNITED STATES CONSULATE-GENERAL,
Habana, September 28, 1896.

JULIO SANGUILY, Esq., *Present.*

DEAR SIR: I have to acknowledge the receipt of your letter of the 23d instant, and in reply have to say that in the belief your case had been sent to Spain on appeal and that any intervention on the part of this consulate-general would be unauthorized, and that even the captain-general, if he were favorably disposed, would be powerless to do anything, I had not taken any steps before this Government in the matter of asking an indulto or pardon from the Spanish Government, especially as I had no instructions from the Department of State upon the subject, because the action of the court before my arrival here carried your case beyond my jurisdiction and out of my reach. No change in the decision of the court can be made except by the Madrid Government, and my position does not allow me to communicate directly with said Government.

I will transmit to the Department of State a copy of your letter to me and call attention to the reasons you set forth for the application in your case of General Calleja's amnesty proclamation of the 27th of February, 1895, and ask that every effort be made to settle your case by pardon; and I beg to assure you that I shall be pleased to carry out whatever instructions I may receive in your case, especially if they tend to ameliorate your condition or obtain your release.

Very respectfully, etc.,

FITZHUGH LEE, *Consul-General.*

Mr. Rockhill to Mr. Lee.

No. 116.]

DEPARTMENT OF STATE,
Washington, October 6, 1896.

SIR: Your dispatch No. 152, of the 30th ultimo, with inclosures, relative to the case of Julio Sangui, has been received, and in reply you are informed that our minister at Madrid cabled to the Department on the 3d instant that this case has been remanded for a new trial.

I am, etc.,

W. W. ROCKHILL.

Mr. Lee to Mr. Rockhill.

No. 164.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 7, 1896.

SIR: As inquiries may be made at the Department by friends of Mr. Julio Sanguily as to the present status of his case, in view of the recently reported favorable decision in the appeal (*casacion*) of his case, carried to Madrid, I have the honor to transmit herewith for the information of the Department copy of a letter written by me to the governor and captain-general asking that certain comforts and privileges be accorded him during his confinement, and a copy of his excellency's reply refusing to make Sanguily any further concessions.

The governor and captain fails to note the point I attempted to make respecting certain privileges to be granted this prisoner, which I asked in consequence of his many old wounds, some of them active to-day, and his impaired health resulting from his confinement, which requires his removal to a hospital or the presence of some person with him, particularly at night.

I agree with General Weyler that all prisoners should be treated exactly alike, but this should not prevent exceptions being made specially in a case such as that of Sanguily, namely, that of an unusually long confinement with no decision rendered, and bad health.

I am, etc.,

FITZHUGH LEE, *Consul-General.*

[Inclosure 1 with No. 164.]

Mr. Lee to the Captain-General of Cuba.

CONSULATE-GENERAL OF THE UNITED STATES,
Habana, October 5, 1896.

His Excellency the Governor Captain-General of the Island of Cuba, etc.:

EXCELLENCY: Previous to the reception of the letter herewith inclosed my attention had been called to the case of the American citizen, Julio Sanguily, who has now been confined in a cell in the fortress Cabaña for nineteen months.

I have been informed that an appeal taken on the ground of some informality in the trial of the case had been successful, and that the case will have to be retried, at least from the point where a plea of this nature was sustained.

Knowing well that the case has passed beyond your jurisdiction, I only refer to the subject because if the second trial takes as long as the first he may remain a prisoner for the next nineteen months. Therefore, he has some claim to have his condition ameliorated to some extent because through no fault of his, but from the action of the court which tried him he has been and will be subject to a very long confinement, and Sanguily's health has suffered so much from his long confinement that his physical condition is not good, and that he requires attention.

The permission given to his wife and son to visit him each day, and to his son to sleep in the cell with him, has been recalled, and at this time his wife can only see him on visitors' day, and his son has been told that if he wants to sleep with his father he will have to stay in the cell all the time, or else depart and not return to said cell, which would deprive his father of his assistance should he be needed during the night.

I respectfully request Mrs. Sanguily be permitted to visit her husband as formerly, and that his son be allowed to leave the cell during the day for the exercise and fresh air necessary to youth, and in the evening be allowed to go back to his father's cell and remain during the night.

I have, etc.,

FITZHUGH LEE,
Consul-General.

[Inclosure 2 in No. 164.]

*The Captain-General of Cuba to Mr. Lee.*GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
*Habana, October 6, 1896.**The Consul-General of the United States, Habana.*

SIR: I have to acknowledge the receipt of your communication, dated yesterday, asking for certain privileges in favor of the political prisoner Mr. Julio Sanguily, in view of the requests he makes in the letter to you, which you also accompany.

As is verified by the prisoner's own statement, he, although of the same category as others confined in the Cabaña fortress, has been the object on the part of the Government of concessions not granted to them, and has been allowed unusual privileges to the extreme of having his son constantly with him.

It is not, therefore, possible, without incurring controversies always irritating, to make him any further concessions, because to grant them similar ones would justly and reasonably be granted to other prisoners of his class.

God guard you many years.

VALERIANO WETLER.

Mr. Lee to Mr. Rockhill.

No. 169.]

UNITED STATES CONSULATE-GENERAL,
Habana, October 9, 1896. (Received October 13.)

SIR: Referring to my dispatch No. 164, October 7, in the case of Julio Sanguily, I respectfully request to know if the subject of his confinement could not be brought to the attention of the Government at Madrid, with the request that the authorities here be instructed to have his confinement made more endurable. It seems to me that this should be done, first, on the ground of his ill health; second, that as a political prisoner he has been already imprisoned over nineteen months, and that the supreme court at Madrid has remitted his case for retrial, I am informed, on the ground that there was a lack of proof to warrant his conviction.

If it is proposed, therefore, to punish him still further because, as the supreme court said, the court of original jurisdiction did not have the proof to convict, it seems that it would be an act of justice to ameliorate his condition, at least to some extent, while waiting for a new trial.

I am, etc.,

FITZHUGH LEE, *Consul-General.*

Mr. Baldwin to Mr. Lee.

No. 129.]

DEPARTMENT OF STATE,
Washington, October 17, 1896.

SIR: The Department has received your dispatch No. 169, of the 9th instant, suggesting that a request be made by the minister at Madrid for the amelioration of the condition of Julio Sanguily, esq., during his continued confinement awaiting a new trial, and in reply you are informed that a copy was sent to Mr. Taylor on the 15th instant.

You are also informed that on the 13th instant a telegram was sent to the minister by the Department in the following words:

In view of Sanguily's long confinement, now lasting nineteen months, and impairment of his health, you will ask all possible amelioration of his position pending retrial.

On the next day a telegram was received from Mr. Taylor stating:
Minister for foreign affairs promises all possible for Sanguily.

I am, etc.,

WM. WOODWARD BALDWIN,
Third Assistant Secretary.

Mr. Rockhill to Mr. Lee.

No. 161.]

DEPARTMENT OF STATE,
Washington, November 12, 1896.

SIR: Referring further to your dispatch, No. 169, of the 9th ultimo, I inclose for your information a copy of a dispatch from our minister to Spain, in which he reports that the Spanish minister of state informed him that the recommendation for amelioration of the condition of Julio Sanguily, pending his new trial, has been made.

I am, sir, etc.,

W. W. ROCKHILL.

Mr. Springer to Mr. Rockhill.

No. 261.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 16, 1896. (Received December 21.)

SIR: I have the honor to transmit herewith, for the information of the Department, the accompanying clippings from the "Judicial notices" of the *Diario de la Marina*, respecting the case of Julio Sanguily, which is set down for a public hearing (juicio oral) on the 21st instant.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

[Inclosure in No. 261—Translation of clippings from *Diario de la Marina*—Judicial notices.]

THE CASE OF SANGUILY.

TUESDAY, December 15, 1896.

In the case instituted against Julio Sanguily y Garit, for the crime of rebellion, part 1 of the criminal court of this superior court (audencia), in a decree of court, dated yesterday, has ordered that the president of the court be notified to appoint two magistrates, who, with the three who have the cognizance of this case, Messrs. Ricardo Maya, Juan Valdes Pages, and José Novo y Garcia, shall make up the number of five necessary to compose the court upon the day set down for the public hearing.

The same part has also ordered that the accused, Sanguily, be notified to name an advocate to defend him, in view of the fact that Don Miguel Viondi, who defended him on his previous trial, is now himself in prison; advising him also that should he not do so, or in case the one newly appointed does not accept the charge, the court will name the lawyer in turn corresponding.

WEDNESDAY, December 16, 1896.

In order to complete the full number of five magistrates who are to compose the court on the 21st instant, order for the public hearing (juicio oral) of this case, have also been designated Messrs. Adolfo Astudillo de Guzman and Manuel Vias Ochoteco.

The accused, Sanguily, who was yesterday notified to appoint an advocate to defend him, has begged the court to grant him three days wherein to name one, for the reason that he has not received replies from the lawyers to whom he has applied, and his situation as a prisoner prevents him from making more active efforts in the matter.

[Telegram.]

Mr. Springer to Mr. Rockhill.

HABANA, December 23, 1896.

(Received December 30, 1896.)

Trial of Sanguily commenced Monday. Finished to-day. Sentence within three days.

Mr. Springer to Mr. Rockhill.

No. 271.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 24, 1896. (Received December 30.)

SIR: With reference to my dispatch, No. 261, of the 16th instant, respecting the public hearing before part 1 of the criminal court of the audiencia, or superior court of Habana, of the case against Julio Sanguily, an American citizen, charged with rebellion, I have now the honor to confirm my telegram of the 23d instant.

On account of the peculiar antecedents of Sanguily's case, too well known to the Department to require repetition, I attended the trial as a spectator, and found the proceedings of sufficient interest to warrant me in the belief that a report of same, condensed from the published accounts, and as coming under my own observation, may prove of interest to the Department.

The court convened Monday last at 1 o'clock, and before commencing the examination of the evidence the counsel for the defense, Don Antonio Mesa y Dominguez, presented a petition to declare the nullity of all the proceedings, as having been prosecuted in violation of the protocol of January 12, 1877, which provides that American citizens shall be subject to trial for the crimes therein mentioned only by the ordinary jurisdiction, except in the case of being captured with arms in hand, and that the proceedings in said cause had been prosecuted by the law of criminal procedure which came into force January 1, 1889, instead of the law mentioned in article 4 of the protocol, and which applied to the present case, set forth in articles 20 to 31 of April 17, 1821, which required trial before six judges, instead of five then present, and for other reasons set forth.

Court took a recess to deliberate upon this point. Upon meeting again the petition was overruled. Defense noted a protest.

Trial continued by reading the findings of the prosecution, which demanded the penalty of chains for life, with costs, and of the defense, which demanded the absolution of the accused for lack of proof of his participation in the crime charged, or, in case of being declared guilty, that he be considered as within the decree of pardon of Governor-General Calleja, of 27th of February, 1895.

The accused was examined and declared his innocence of the present charges against him, but admitted having participated in the insurrection of 1868-1878. He denied having written certain letters attached to the proceedings and exhibited to him.

Reading of the documentary evidence was waived by both parties

Three experts then made an examination of the letters referred to and several fragments of a document purporting to be an appointment of colonel made by Sanguily to a certain Azcuay. The experts, after a close and even ridiculous examination, decided that they were all in

Sanguily's handwriting, but declared that they could not supply the words wanting in the last-mentioned document to give it the intended meaning. These are the letters upon which the prosecution principally rests its charges against Sanguily as guilty of conspiracy and rebellion.

After another short recess, the president of the court, in examination of the accused, asked him if the letter dated February 14 was written by him, which he denied, and there appearing to be a contradiction, as in a previous examination he had identified the letter as his, the experts were recalled to examine this letter also, which they declared to have been written by Sanguily.

The officers who arrested Sanguily and Azcuy were next interrogated. Upon his arrest Azcuy endeavored to chew up a document found concealed in his cravat, which it was claimed was the appointment of colonel made out to him and signed by Sanguily. Both officers testified that there had not been, previous to his arrest, any orders to watch Sanguily.

The negro woman who had care of Sanguily's room at the estate Portela was then examined. It was here that the incriminating letter alleged to have been written by Sanguily is said to have been found, upon the sale of some old furniture taken from the room he frequently occupied.

Azcuy's examination, which followed, was to get him to acknowledge where he obtained the document he concealed in his cravat.

Upon calling for the witness Antonio Lopez Coloma, who was executed a few days ago, a laugh was raised, which the president promptly stopped. The former declaration of this witness was then read, and the defense noted a protest against this proceeding.

Court adjourned.

Upon beginning the session of the second day, the fiscal, or prosecuting officer, moved to declare the nullity of the expert testimony of the previous session on the ground that, as the appointment of new experts in place of two that died had not been communicated to the defense in time to permit a challenge within three days as required by law, this want of form might affect the validity of said testimony. The defense declared that it had had ample notice of the appointment of experts, and accepted their report, and waived making any objection, but as the prosecution insisted on this point, the court took a recess to deliberate. Upon again resuming, it declared the expert testimony valid. The prosecution, however, made a protest against this ruling.

The declaration of the pawnbroker, where Sanguily had pawned his machete and revolver, was then read, this witness being too ill to attend.

The fiscal then summed up against the accused, maintaining that he was one of the most active promoters of the present rebellion, initiated on February 24, 1895, and the leader designated by the revolutionary junta of New York, to head the movement; that as such he issued commissions, among them one of colonel to José Ynocencio Azcuy, who was arrested, and the document being found concealed in the knot of his cravat, he endeavored to swallow it; that the fragments appear in the proceedings and have been declared by experts to be in the handwriting of the prisoner. The fiscal laid special stress upon the testimony of the accused, who had stated, when interrogated by the court, that he had not accepted the convention of Zanjón, of 1878, but had gone abroad to the United States, whence he did not return until 1879, and then as a citizen of the United States, and bitterly censured him for his acts of renouncing his nationality, of accepting the citizenship

of another country, even of such a country as the United States—and here the fiscal took occasion to pronounce a decided eulogium of the United States—of that friendly and powerful nation that feels bound in dignity to protect its adopted citizens who had privileges here that even those who had not ceased to be Spaniards did not enjoy, and of again returning to the land of his birthplace, of his forefathers, and of his wife and son, to resume his residence, and forgetful of the duties imposed on him as a foreign citizen, to remain neutral, to conspire to head a revolutionary movement, issuing commissions, and executing preparatory acts of rebellion such as recruiting men and acquiring arms and ammunition. That in his opinion the proofs were positive, and that he therefore demanded the penalty of chains for life.

Counsel for the defense then commenced his argument, but on account of the late hour the court adjourned.

The session of the third and last day of the trial was taken up in listening to the plea for the defense.

In this the counsel declared that the trustworthy private advices of Governor-General Calleja, who stated that Julio Sanguily and José Maria Aguirre were the principal promoters of an armed rebellion, had not been proven in the trial.

General Calleja had stated that Sanguily and Aguirre had been designated to put themselves at the head of the insurrection in the provinces of Habana, Matanzas, and Santa Clara; that they had direct relations with the revolutionary committees abroad and were delegates of the Cuban junta of New York; that they recruited men and acquired arms and ammunition to make war against the mother country, and this was confirmed by their conduct, closely watched by the police; that neither the statement of the chief of police of that date nor that of his subordinate officers have confirmed that allegation that Sanguily was under police surveillance; that they have declared they never received any orders to that effect and had no further antecedents against Julio Sanguily than those of his participation in the last revolution.

That on the day the present insurrection broke out Sanguily, Aguirre, Perez Trujillo, and Gomez de la Maza were arrested. All of them, with the exception of Sanguily, were released after a few days.

The private advices of General Calleja, whose existence in the offices of the General Government and of the captaincy-general had been denied by Gen. Martinez Campos in two official communications, which appear in the proceedings, this secret information served as the only basis for the arrest of Sanguily, Perez Trujillo, Aguirre, and Gomez de la Maza, and ought not to have any influence in this process, because the facts have not been proved, and with respect to the others named have had no effect whatever.

Where appear the relations that Sanguily is said to have had with the insurgents, and especially with those of Matanzas, and where appears the acquisition by Sanguily of the war material referred to by the prosecution? And the defense refers to a communication from the governor of Matanzas to the effect that the existence of any such committee in Matanzas had not been proved, and that in the proceedings against Juan Gualberto, Gomez, and others, for the acquisition of munitions of war, there appeared no charge against Sanguily.

Moreover, the statement of Lopez Coloma, after all, is not altogether against Sanguily, for that which he made before the military jurisdiction relating to the manner of his capture contained nothing positive against Sanguily; however, he was obliged to declare that Coloma's

testimony read before the court was null and void, for he had been executed, and said nullity was founded on strict principles of the law of criminal procedure.

That with respect to the expert testimony, although the experts were disposed to declare all the letters to be in the handwriting of Sanguily, yet they did not confirm anything in respect to the principal point of the colonel's commission seized upon Azcuy, and were unable to supply the words missing therein to give it sense; and even if Sanguily had issued said commission, there had been no proof presented that he was authorized, nor any proof whatever by the police or the Government that Sanguily had been designated as a leader of the rebellion; and further, that upon this point Juan Gualberto Gomez had declared that he was the only delegate of the junta, and no leader had been designated for the movement.

The counsel of the defense concluded by declaring that against Sanguily there were only his antecedents as a leader in the last insurrection, hypotheses, presumptions, suspicions, which, when taken into account that it was a question of a serious penalty, should have no weight upon the mind of the court. He therefore demanded the acquittal of his client, and finished his plea with thanks and grateful compliments to the fiscal and judges for their patient hearing.

Upon being asked if he had aught to say, Sanguily said: "Not a word, absolutely."

The trial was declared to be over, and the court rose. Sentence may be delayed five days.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Lee to Mr. Rockhill.

No. 275.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 30, 1896. (Received January 2, 1897.)

SIR: With reference to the trial of Julio Sanguily, reported by Mr. Springer in dispatch No. 271, of the 24th instant, I have to confirm my telegram of the 28th instant, as follows:

Assistant Secretary of State, Washington:

Sanguily sentenced life imprisonment. Appeal to be taken.

LEE.

I am, etc.,

FITZHUGH LEE,
Consul-General.

Mr. Lee to Mr. Rockhill.

No. 283.]

UNITED STATES CONSULATE-GENERAL,
Habana, December 31, 1896. (Received January 6, 1897.)

SIR: Yesterday noon I visited the Cabaña fort and had a talk with Mr. Julio Sanguily, an American citizen, and formerly a general in the insurgent army. As you know, he was arrested in his house while taking a bath on the 24th February, 1895.

Sanguily had proved himself a very brave and efficient officer in the Cuban war from 1868 to 1878, and had been wounded seven times. It was therefore naturally supposed that sooner or later he would have

joined the insurgent side of the war now in progress in this island. He had, so far as I am informed, committed no overt act in that direction, and was taken without arms in hand.

On the 28th of November, 1895, or, say, nine months and four days after he was arrested and thrown into a cell at the Cabaña fort, he was tried and sentenced to be imprisoned for life. An appeal was taken to the supreme court of justice at Madrid, which decreed, upon some technical ground, that Sanguily should be retried.

On the 21st of December, 1896, his second trial commenced, and ended by his being again sentenced to perpetual imprisonment.

From this second sentence an appeal has been taken which, whether successful or not, will greatly lengthen the time he has already passed in his cell.

The lawyer who defended this prisoner in his first trial now looks from the bar of a cell adjoining his in the Cabaña fort, and I am informed that the lawyer who managed his appeal before the Madrid court has suffered in consequence thereof, so that it may be difficult to procure in Madrid another person versed in the law who will consent to manage for Sanguily the appeal proceedings.

Only a few days after the arrest of Sanguily a proclamation was issued offering amnesty to all persons in arms who would give themselves up. It seems that this ought to apply to persons who had been arrested without arms in hand. Two other Cuban officers of distinction—Ramon Perez Trujillo and José Maria Timoteo Aguirre—were arrested, I am told, at the same time as Sanguily and for the same reason, namely, because it was thought that they would engage in the war. After a short incarceration they were liberated.

In view of all these facts, and for the additional reason that Sanguily has been in a cell twenty-three months to date, is not in good health, and is suffering from old wounds, I respectfully suggest that the Department bring these facts to the notice of the Madrid Government and ask that instructions be issued that he be released from prison on the condition that he will leave this island and not return until the present war has terminated.

I am, sir, etc.,

FITZHUGH LEE,
Consul-General.

Mr. Lee to Mr. Olney.¹

No. 317.]

UNITED STATES CONSULATE-GENERAL,
Habana, January 22, 1897. (Received January 27.)

SIR: I have the honor to inclose herewith two papers signed by Julio Sanguily, one in Spanish and the other in English. I would suggest that the papers inclosed be not used until I telegraph to that effect.

I am, etc.,

FITZHUGH LEE.

[Inclosure in No. 317.]

Affirmation of Julio Sanguily.

I, Julio Sanguily, an American citizen confined at the Cabaña fortress, Havana, do hereby sacredly affirm to the United States and to Spain that if I am released by pardon of the latter Government I will leave and remain away from Cuba, and will

¹ Correspondence subsequent to Senate Doc. No. 104.

not aid directly or indirectly the present insurrection against the Government of Spain, and I hereby promise that should I do so at any time I will not claim the protection of the United States Government. I certify that this pledge is given of my own free will and without compulsion on the part of anyone.

Fortress Cabaña, Havana, January 21, 1897.

JULIO SANGUILY.

Witnesses:

ERNESTO LA FOSCA.
DONNELL ROCKWELL.

Mr. Lee to Mr. Olney.

[Telegram.]

HABANA, January 28, 1897.

Sanguily signed personal pledge to me that he will faithfully observe terms already mailed. Recommend case be considered on said terms.

LEE.

Mr. Olney to Mr. Lee.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 23, 1897.

Inform Julio Sanguily and his counsel that in order to perfect issuance of pardon, appeal should be withdrawn and notice of withdrawal at once given here and in Madrid.

OLNEY.

Mr. Lee to Mr. Olney.

[Telegram.]

HABANA, February 24, 1897.

Have absolute withdrawal of appeal Sanguily's case. Can so cable Madrid. It is understood, of course, if not pardoned appeal be again taken, as withdrawal leaves original sentence in full force.

LEE.

Mr. Lee to Mr. Rockhill.

No. 376.]

UNITED STATES CONSULATE-GENERAL,
Habana, March 1, 1897. (Received March 6.)

SIR: I have the honor to transmit herewith copy translation of a communication from the Acting Governor-General informing me that the Queen Regent had commuted the penalty of perpetual imprisonment and civil interdiction, imposed on Mr. Julio Sanguily by the superior court of Habana, to that of perpetual exile and its accessories.

Mr. Sanguily left for the United States by the steamship *Mascotte* on the 27th ultimo.

I am, etc.,

FITZHUGH LEE.

[Inclosure in No. 376.—Translation.]

The Marques de Ahumada to Mr. Lee.

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
Habana, February 25, 1897.

The minister of the colonies telegraphs to me to-day that Her Majesty the Queen Regent has signed a decree commuting the penalties of perpetual imprisonment and civil interdiction, imposed by the superior court (audiencia) of this territory, on the American citizen Mr. Julio Sanguily, for that of perpetual exile and its accessories.

And having disposed that the orders of Her Majesty be complied with, I have the honor to inform you of the above, and that the proper orders are being given for the immediate release of the party concerned, so that he may leave this port for the United States by the steamer sailing next Saturday, the 27th instant.

God guard you many years.

MARQUES DE AHUMADA.

KILLING OF SEGUNDO N. LOPEZ BY SPANISH SOLDIERS.¹*Message of the President.*

To the Senate of the United States:

In response to the resolution of the Senate of February 2, 1897, I transmit a report from the Secretary of State relative to the killing of Segundo N. Lopez, son of M. F. Lopez, at Sagna la Grande, in Cuba.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 11, 1897.

Report of the Secretary of State.

THE PRESIDENT:

Referring to a resolution of the Senate of the United States of February 2, 1897, in the terms following—

Resolved, That the Secretary of State be requested to send to the Senate any information that he may have in regard to the killing, by Spanish soldiers, of the son of M. F. Lopez, an American citizen, at Sagna la Grande, in Cuba, and any report or letter from the American consul at that point relating to the subject—

I have the honor to make the following report, with a view to its transmission to the Senate if deemed not incompatible with the public interests:

It is claimed that Segundo N. Lopez, son of M. F. Lopez and a native of Cuba, was an American citizen—a claim which is supported by the fact that he was registered as such by the United States consul at Cienfuegos. On the other hand, his name is not to be found in the register of American citizens kept by the consul-general at Habana. The ex parte evidence in the possession of the Department tends to show that Lopez, in the middle of April last, was visiting relatives in a

¹ Reprinted from Senate Doc. No. 120, Fifty-fourth Congress, second session.

district of Cuba which he had been accustomed to frequent as an agent and interpreter of American buyers of tobacco for export; that he was not connected with the insurrection; that on the 11th of said April he was arrested by Spanish troops, being at the time wholly unarmed; that on being asked who he was by the officer in command, he at first replied that he was a "pacifico," and presently declared that he was an American citizen and produced papers which the officers looked at and returned to him; and that within a short time thereafter he was killed by the troops either by or without orders on the part of the officer in command, but so far as known without charges, process, or trial of any sort.

The above brief summary of evidence on file in the Department is submitted because the same was communicated in strict confidence and on the express understanding that no clew should be given to the identity of the witness.

Upon the receipt of the evidence above referred to the consul-general of the United States at Habana was instructed, August 21, 1896, to call upon the Captain-General of Cuba for an investigation of the facts respecting the death of Lopez, and for due punishment of all persons criminally connected therewith. The Captain-General promptly acceded to the request for an examination, and stated that the results when reached would be reported to this Government. Thus far, however, no report on the subject has been received, the last communication from the office of the Captain-General being to the effect that the inquiry was still pending, so that no definite conclusion could be given.

Notice of a demand by the father of Lopez for indemnity for the injuries sustained by him through the death of his son has been duly presented to the Spanish Government through our minister at Madrid.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,
Washington, February 11, 1897.