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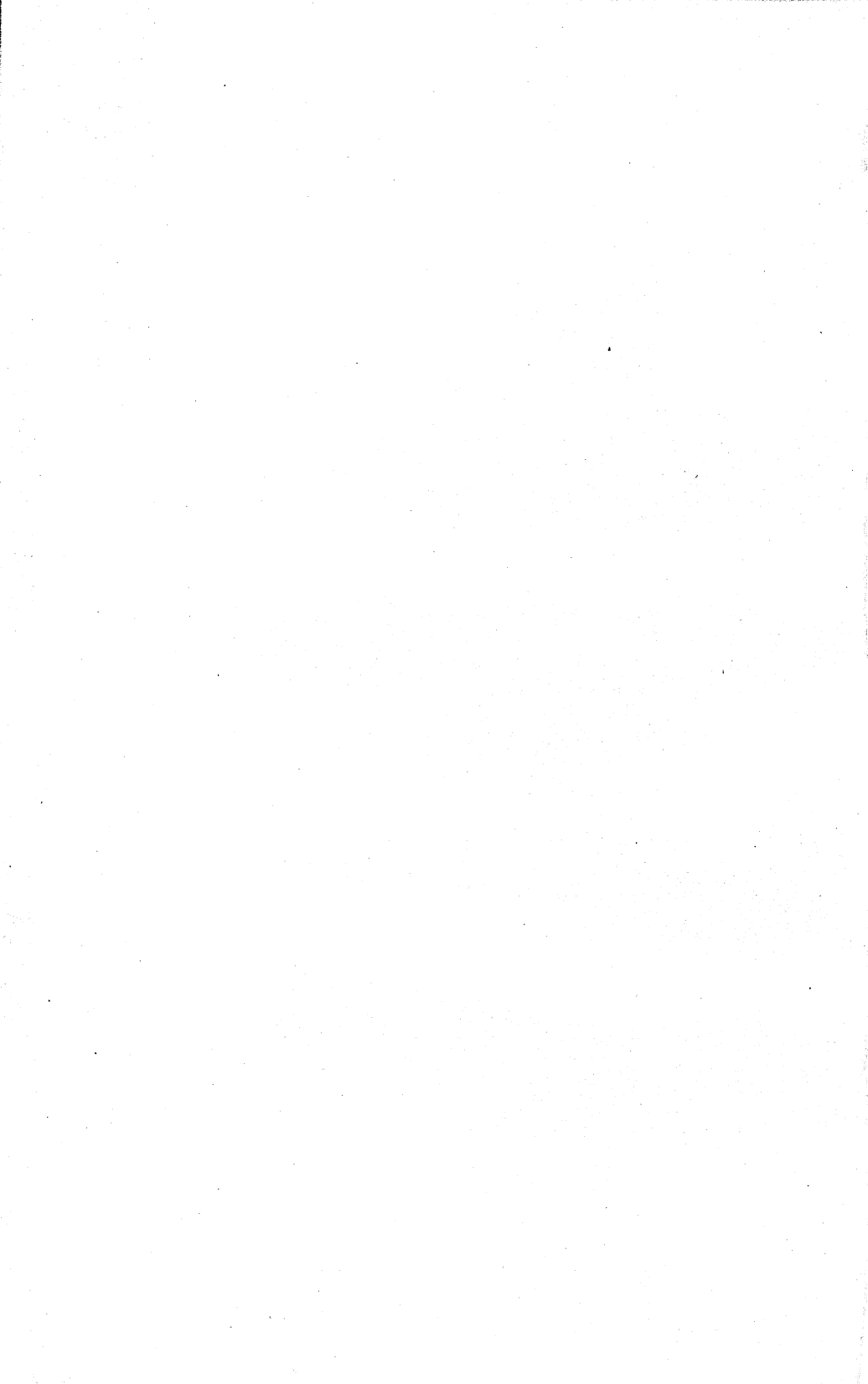
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FIRST SESSION OF THE FORTY-FOURTH CONGRESS.

EXECUTIVE DOCUMENTS

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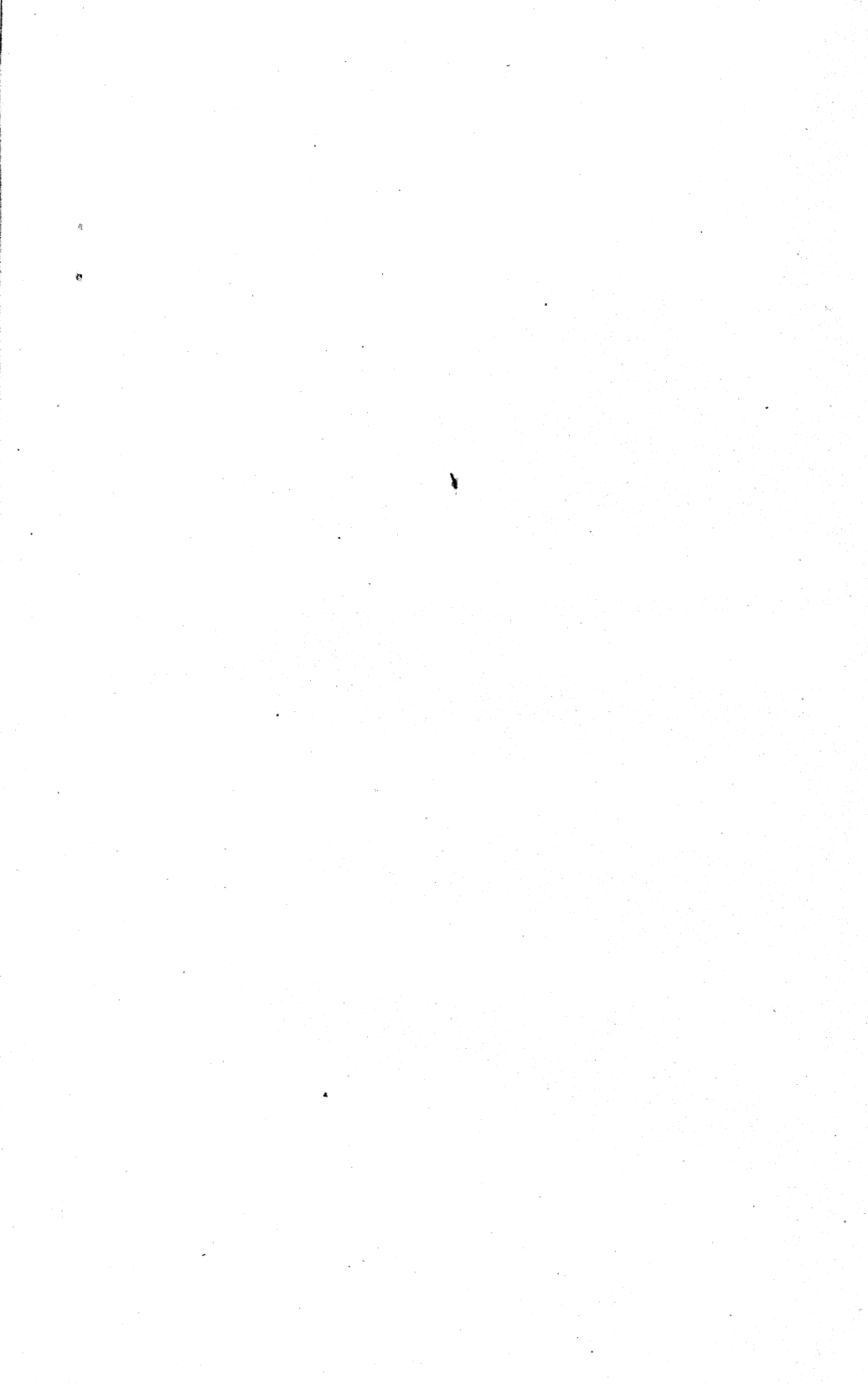
HOUSE OF REPRESENTATIVES.

1875-'76.

IN SEVENTEEN VOLUMES.

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| Volume 1..No. 1, part 1, Foreign Relations, parts 1 and 2. | Volume 9..Nos. 14 to 21 inclusive. |
| Volume 2..No. 1, part 2, War, parts 1, 3, 4, and 2, volumes 1 and 2. | Volume 10..Nos. 22 to 83 inclusive, except No. 81. |
| Volume 3..No. 1, parts 3 and 4, (Navy and Postmaster.) | Volume 11..No. 81, Coast Survey. |
| Volume 4..No. 1, part 5, Interior, parts 1 and 2. | Volume 12..Nos. 84 to 158 inclusive, except Nos. 107 and 124. |
| Volume 5..No. 1, parts 6, 7, 8, 9, and Nos. 7 to 13 inclusive. | Volume 13..No. 124, Commerce and Navigation. |
| Volume 6..No. 2, Treasury. | Volume 14..Nos. 159 to 195 inclusive, except Nos. 166 and 191. |
| Volume 7..Nos. 3 and 4. | Volume 15..No. 166, Commercial Relations. |
| Volume 8..Nos. 5, 6, and 107, (quarto.) | Volume 16..No. 191. |
| | Volume 17..No. 196, Vienna Exposition, parts 1, 2, 3, and 4. |
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PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

The United States,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 6, 1875.

PRECEDED BY A

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

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CORRESPONDENCE.

(CONTINUED.)

HAYTI.

No. 305.

Mr. Bassett to Mr. Fish.

No. 348.]

LEGATION OF THE UNITED STATES,
Port au Prince, February 24, 1875. (Received March 11.)

SIR: I have the painful duty of reporting to you that on the evening of the 11th instant a fire broke out in the most populous section of this city, known as the *Croix des Boussales*, and, in spite of all efforts that could be put forth to arrest it, steadily gained headway for six long hours, blazing before the strong land-breezes with terrific fury, crushing and consuming everything in its way, lighting up the sea and the mountain-sides for miles around in awful sublimity, and spreading consternation among all classes domiciled or having interests here. Many destructive fires have occurred in this city since the independence of Hayti, those of 1820, 1822, 1865, 1866, and 1869 being particularly memorable. But this one of the 11th instant was probably more destructive than any former one. It completely burned ten squares, and partly five more. It is estimated that eight hundred houses were reduced to ashes; that eight hundred families, about one-fourth of the city's entire population, were rendered homeless; that three millions of dollars' worth of property was utterly destroyed, and that suffering and loss more or less severe have been entailed upon more than half of the inhabitants of the capital of Hayti.

There are, however, two or three points of relief in all this sadness. The large American commercial house of Oliver Cutts & Company resisted the fiery burning. It stood like a wall of adamant when everything around it was in flames. I was myself on the spot during the conflagration, and particularly noticed that there was less disposition than usual on the part of the evil-minded to avail themselves of the confusion to commit depredations. Indeed, movable property rescued from the flames without the knowledge of the owners was in many instances restored to them without the usual interference of the authorities. The government put forth all its energies to arrest the flames. President Domingue on the following day issued a proclamation expressing the sympathy of the government for the sufferers, and promising them all the aid it could properly give them; and an appropriation of several thousand dollars for their temporary relief was promptly made.

The efforts customary in such cases here were put forth to give a political significance to this sad occurrence, following, as it did, so

soon after a similar one at Aux Cayes. But the President himself told me that he should lend no countenance to any attempts to give it such a character. He thought that the fire had its origin in an accident, and that no other than the most commendable disposition had been shown by any class of citizens in reference to the calamity. Such is, I think, the general opinion here now.

I am, &c.,

EBENEZER D. BASSETT.

No. 306.

Mr. Bassett to Mr. Fish.

No. 352.]

LEGATION OF THE UNITED STATES,
Port au Prince, March 11, 1875. (Received April 2.)

SIR: I have the honor to represent that, on Wednesday, the 24th ultimo, there came into this harbor an English fleet, consisting of three men-of-war, namely, (1) Her Majesty's iron-plated screw-ship *Bellerophon*, of four thousand two hundred and seventy tons, flag-ship of Her Majesty's North American and West India squadron, commanded by Captain Richard Wells, Vice-Admiral G. G. Wellesley, C. B., being on board, manned by six hundred men and carrying fifteen guns, nine of them being three-hundred-pounders; (2) Her Majesty's paddle steam-sloop *Argus*, of nine hundred and eighty-one tons, under command of Commander Edward J. Jermain, and carrying five guns; (3) Her Majesty's double-screw gun-vessel *Swallow*, of six hundred and sixty-four tons, commanded by Commander Edward C. Drummond, and carrying three guns.

It soon appeared that this fleet had come hither in response to statements made near the end of last year to his government by Mr. St. John, who was at that time Her Majesty's minister resident in Hayti, and who was understood to entertain no friendly disposition toward President Domingues' government, relative to what he represented to be injustice inflicted by the Haytian authorities, primarily upon a British subject named Maunder, whose husband, Joseph Maunder, now deceased, had secured, some years ago, by contract with the then existing administration of this government, a patent which was to run for a term of years not yet expired, to cut and export mahogany on the island of La Tortue, and secondarily upon another British subject named Stevens, who made with the Saget administration a contract to undertake and complete works to supply the city of Port au Prince with water.

In regard to the former and graver of the two cases it appeared that when, during the year past, the government intimated to Madame Maunder that she had not fulfilled and was not fulfilling the conditions exacted of her by the terms of the contract, she resented the intimation by charging that she had been seriously interfered with and hindered in the work at La Tortue by the authorities in that section who were acting directly under instructions from the capital, and that, in fact, she had been spoliated by them to an extent which warranted her in asking an indemnity, which she accordingly demanded. It was, I am led to believe, more especially to influence this government in the adjustment of this claim for indemnity that Mr. St. John had called to his aid the men-of-war.

Neither Vice-Admiral Wellesley, nor my colleague, Mr. Byron, Her Majesty's chargé d'affaires, was at all disposed to resort to coercive measures, but they both seemed desirous of an impartial examination into all the alleged causes of complaint, and they both had conferences with the Haytian minister of foreign affairs regarding the subject. At these conferences, which were, I am assured, unofficial, the minister is said to have maintained that Madame Maunder had not fulfilled the conditions required by the contract given to her late husband and afterward assumed by her; that she was not a *bona-fide* British subject, but really a Haytian citizen, and that, therefore, his government ought not to recognize the equity of any claim preferred by her through the British legation.

Vice-Admiral Wellesley having received and noted directly and through my colleague, Mr. Byron, the statements and papers offered by Madame Maunder, and also such representations as the minister chose to submit, weighed anchor on the 27th ultimo, and steamed out of these waters with the Bellerophon and the Argus, leaving behind him here the Swallow. On the 2d instant the latter sailed for La Tortue, for the purpose, it is said, of a more intimate examination and verification of some of the allegations advanced by both the parties concerned in the case. As soon as the government gained knowledge of the Swallow's mission, it caused to be sent to the British legation a communication in the nature of a protest, claiming, as I understand, that the Swallow was hardly warranted in thus attempting to proceed to a port of the republic not open to foreign commerce, there to search for facts with which to meet the statement which had been in good faith offered by the government, and which it was ready to substantiate. I have also understood that my colleague's, Mr. Byron's, reply to the communication was to the effect that the visit of the Swallow at La Tortue was intended to be entirely friendly, and that, therefore, the government sent a commission to the same locality to observe and report upon the proceedings of the British officials there and to gather any facts bearing upon the case at issue and within reach.

The Swallow, after an absence of ten days, has just returned to Port au Prince this morning. I am told by Mr. Byron that she is to remain here or be relieved by another of Her Majesty's war-vessels during the pendency of Madame Maunder's case. The result of the visit of the Swallow and of the Haytian commission to La Tortue has not yet transpired. But I have learned that my colleague, Mr. Byron, has already written somewhat fully to his government relative to the subject, and also relative to the other case of Mr. Stevens, which my colleague tells me he thinks will be settled easily and amicably, as Mr. Stevens only asks for authority to continue his work under his contract with the Saget government or to be indemnified for the labor and expense which he has already made in conformity with his engagements as stipulated in the contract.

I shall keep the Department duly advised of any further developments that may be made touching these two cases rendered interesting from the attitude now assumed toward them by Her Britannic Majesty's government.

I am, &c.,

EBENEZER D. BASSETT.

No. 307.

Mr. Bassett to Mr. Fish.

No. 353.]

LEGATION OF THE UNITED STATES,
Port au Prince, March 11, 1875. (Received April 2.)

SIR: On Friday, the 5th instant, the National Constitutional Assembly, which is still sitting in extra session, took steps to place under accusation General Lamothe on charges of unfaithfulness in the discharge of his functions as minister of interior and foreign affairs, under President Saget's administration.

Immediately thereupon General Lamothe sought and obtained refuge in the British legation. At first the government contented itself by stating to my colleague, Her Britannic Majesty's chargé d'affaires, that there were no charges of a political character against the general, intimating that he consequently had no claim to the protection which he had sought in the British legation. To this my colleague responded in effect, that as in this country it was not always easy to distinguish between administrative acts and those of a political character in such cases, and as the right of asylum had always been conceded to foreign legations, he could not consent that General Lamothe should be invited to leave the legation against his own will.

The authorities then brought forward the extradition treaty alluded to in my No. 232, of July, 1873, which treaty has not, however, been yet duly ratified and proclaimed, and intimated a desire for General Lamothe's rendition under its provisions. My colleague, in reply, asked reference to his first communication on the subject, and again refusing to accede to the intimated desire, said he should refer to Her Majesty's government the entire case, together with the correspondence thus far had in reference thereto, which he has, I understand, accordingly done. I think it not altogether improbable that this government may also instruct its chargé d'affaires in London to make representations to the foreign office on the same subject.

The vexed question as to the so-called right of asylum is thus to be brought again freshly to the attention of Her Majesty's government; and while that government has formally withdrawn the exercise of that right from its purely consular officers in this island, I scarcely think it will be disposed, under existing circumstances, to make a similar withdrawal from its diplomatic representative here.

I have, &c.,

EBENEZER D. BASSETT.

No. 308.

Mr. Bassett to Mr. Fish.

No. 355.]

LEGATION OF THE UNITED STATES,
Port au Prince, April 9, 1875. (Received April 30.)

SIR: Referring to my No. 353, of the 11th ultimo, in which it is stated that General Lamothe had sought and obtained refuge in the British legation because of an accusation preferred against him by the Corps Législatif, on the ground that he had not faithfully fulfilled to the state his trust as President Saget's minister of interior, I have the honor to represent that he was allowed, by a mutual understanding between my colleague, Her Britannic Majesty's chargé d'affaires, and the authorities

of this government, to resume his freedom and return to his home on the 27th ultimo.

After the date of my No. 353, communication, in one form and another, between my colleague and the government relative to the affair continued, but with unsatisfactory results, up to the 16th ultimo. On that day I went to Minister Rameau with my colleague, at his request, and on his representation to me that he wished to have the case presented from a humane point of view and in a friendly spirit. At the interview with the minister my colleague stated our united view of the so-called right of asylum; that it is generally regarded as an exceptional but humane measure, which, if continued at all, ought to be open alike to citizens of all parties in the country, and that when once a person has been received as a refugee in a foreign legation, the rule seemed to be not to deliver him up on requests or demands such as had been made for General Lamothe, without a guarantee for his personal security from irregular proceedings against him. We also intimated to the minister that if his government would formally express its desire and purpose to fairly renounce the so-called right without reference or prejudice to any case actually in hand, it was possible that our governments, in conjunction with any others having legations here, might acquiesce in an understanding to that end. The minister did not appear favorable to this intimation. He said that it raised another question, which his government might not be prepared now to decide, and went on to reiterate with some warmth his view; that the case of General Lamothe was not a political one, and that, therefore, the general was not entitled to the refuge he had obtained from my colleague. The suggestion was then made to him that if the government wished merely, as we inferred from his remarks, to place General Lamothe on trial for an alleged misappropriation of public moneys, he might be relieved from further refuge in the British legation by entering on his part into security sufficient for the sums alleged to have been misappropriated, and the government, on its part, giving my colleague a guarantee that no irregular proceedings or persecutions should be taken against the ex-minister. This idea seemed to arrest the minister's attention, and he said he would think well over it. Although during the conversation the minister manifested considerable warmth, and at one time said somewhat vehemently that his government would express itself and claim its rights before Her Majesty's government in the matter through its legation in London, the interview ended in the utmost good feeling.

In accordance with the terms of the suggestion above noted, General Lamothe came out from the British legation on the 27th ultimo. I doubt, however, whether he will ever be brought to trial. Nevertheless, I await with some interest the view that Her Majesty's government may express upon the case, which was early referred to them.

I am, &c.,

EBENEZER D. BASSETT.

No. 309.

Mr. Bassett to Mr. Fish.

No. 358.]

LEGATION OF THE UNITED STATES,
Port au Prince, April 17, 1875. (Received May 8.)

SIR: On the 23d of December last President Domingue issued a proclamation convoking in extraordinary session, for the 11th of Janu-

ary following, the National Constituent Assembly, acting under the constitution as the Corps Legislatif. The only reason given for the step in the proclamation was in these words: "That a treaty of peace, commerce, navigation, and extradition has been concluded between the Republic of Hayti and the Dominican Republic; that, according to the terms of article 40 of this treaty, its provisions must be ratified and the ratification exchanged at Port au Prince within a delay of three months from the 9th of November last."

The assembly promptly ratified the treaty on the 20th of January, (see my No. 346, of February 3, 1875,) and might then have supposed, from the terms of the president's proclamation, that the work for which it had been convened was finished; but it continued in session thereafter two months, occupying itself with the regular business of the legislative body, and acting in full harmony with the executive on nearly, if not quite, all questions. On the 19th ultimo, the usual legislative work done at the annual sittings of the Corps Legislatif having been well advanced, the assembly adjourned without day, and the president issued a proclamation announcing that "the next legislative session, which ought to be opened the first Monday in the month of April, in this year, is postponed, and will take place the 20th of next September."

The assembly's work after the ratification of the treaty related chiefly to internal affairs; but there were two or three measures adopted which may possess interest of a wider scope. Among these may be noted the opening to foreign commerce of the port of Anse d'Hainault, situated at the end of the western peninsula of the republic. Another act of some interest was the vote to erect a befitting monument to the memory of the Emperor Dessalines and of other distinguished actors in the first revolution. It has seemed to me that there has been heretofore a strange neglect on the part of this government and people in regard to the memory of the really extraordinary men in the history of Hayti. One almost never hears the name of Toussaint l'Ouverture here, and I have sought in vain for an accurate likeness of him. Known and cherished as are his name and fame in foreign lands, his memory is almost "without honor in his own country."

But the most important measures acted upon by the assembly were those looking to an improvement of the financial condition of the republic, which, it must be confessed, has been, and still is, deplorable. President Domingue, on his accession to power, found the finances exhausted, the French debt, that standing burden to Hayti, in arrears, the army unpaid, the country staggering under interior debts, and floundering generally in financial embarrassment. The government, therefore, in December last judged it necessary to negotiate, and did negotiate, with the English house of Messrs. White, Hartmann & Co. here, a loan of three millions of dollars, with which to liquidate the arrears of the French debt and meet the installments coming due thereon, release itself from its engagements to this same house for loans advanced under the former administration, to effect the retreat of the paper currency, and to consolidate some of its smaller floating interior debts.

The terms upon which this loan was made were quite favorable to the lenders. It was to be refunded in installments running through ten years, the first payment to be made within six months after the loan was effected. The interest was so fixed that it amounted to nearly sixteen per centum per annum, and a lien was given upon the customs-revenues in guarantee for both principal and interest. As these revenues had already been mortgaged for the French debt, the contract necessa-

rily received in some form an approval through the French legation, and duplicates of it were lodged in both the French and English legations. Moreover, the government engaged itself not to contract any other loan within the ten years without first giving the preference to Messrs. White, Hartmann & Co.

During the month of February it was claimed that the three million were not sufficient for the end in view, and finally that the lenders had not fairly kept to their engagements in the matter. And on the 10th of that month the Assembly authorized the government to contract a new loan of twelve millions of dollars, with which it might be enabled (1) to pay off the three millions recently borrowed of Messrs. White, Hartmann & Co.; (2) to liquidate entirely the French debt, which is now estimated at about eleven millions of francs; (3) to pay all other debts of the country, amounting to about four millions of francs; and (4) to enter upon and complete numerous internal improvements.

On the 8th ultimo a contract was signed to effect this new loan, and three days later it was sanctioned by the Assembly, as it had been agreed upon between the Executive and Messrs. Emile Pievers & Co., the later acting as agents of capitalists in Paris. My colleague, the French minister plenipotentiary, gave his concurrence to the contract as far as the provisions for the French debt were concerned. The terms agreed upon for this loan were thought to be more favorable than those of the former one. The principal is to be paid in installments covering forty years, the first installment to be paid in 1882. The rate of interest is fourteen per centum per annum, and the guarantee was the export duties. The government afterward asked that the guarantee be changed to forty-five per centum of the duties on imports. With this modification the contract has gone forward to the Paris capitalists by the hands of a special commissioner of the government.

This financial measure is justly regarded as an important one for this government, and the result of the negotiations of the government commission with the capitalists in Paris is looked for with interest.

I am, &c,

EBENEZER D. BASSETT.

No. 310.

Mr. Bassett to Mr. Fish.

No. 360.]

LEGATION OF THE UNITED STATES.

Port au Prince, April 17, 1875. (Received May 8.)

SIR: I have the honor to represent that in consequence of what has been considered an indignity offered by the police authorities at Port de Paix to the British vice-consul there, while my colleague, Her Britannic Majesty's minister-resident, was in that harbor, on the man-of-war Woodlark, on his tour around the island, as noted in my No. 357, the latter returned to Port au Prince yesterday, to make complaint to this government of the proceedings taken against the vice-consul, and to demand reparation for them.

It appears that while the vice-consul, Mr. Maunder, brother-in-law of the Madam Maunder referred to in my Nos. 352 and 356, was returning from a visit to my colleague, Major Stuart, on board the Woodlark, about half past 10 o'clock one evening, the police authorities attempted to arrest

the boatman, a British subject, who rowed him ashore from the Woodlark, on the ground that the municipal regulations forbade him to be beyond his domicile at that hour. Mr. Maunder very properly protested against the attempted arrest of his boatman under the circumstances, but in the end both himself and the boatman were put under personal detention, being subjected mean while to unpleasant and disrespectful language from the police authorities. He at once appealed to the commander of the arrondissement, who readily ordered the release of both Mr. Maunder and the boatman.

On learning of these proceedings the following morning, my colleague, still on board the Woodlark, in the harbor, demanded of the superior authorities there a prompt disavowal of the officer's act in offering an indignity to the vice-consul, the degradation of that officer from his command, and a salute to the British flag in presence of the officers and soldiery in that vicinity. These demands not being acceded to, my colleague at once weighed anchor for Port au Prince, where, as already stated, he arrived yesterday morning, and, without delay, repeated his demands to the government through the minister of foreign affairs, first in conversation, then in an official dispatch. No answer has to this moment of writing been made to his dispatch. But I hardly think that that portion of his demand which exacted a salute to the British flag will be immediately or readily complied with. Indeed, I judge it not altogether improbable that it may be referred to Her Majesty's government through the Haytian legation in London. The other features of the demand ought to, and, I think, will, be conceded.

At all events, my colleague has thus unhappily found himself in the midst of difficulty at the very threshold of his entrance into diplomatic life, and I shall carefully advise you of any settlement that may be made of the case, which it may be remembered is the fourth one of disagreement that has occurred between the British legation here and the authorities of this government within three months.

I am, &c.,

EBENEZER D. BASSETT.

No. 311.

Mr. Bassett to Mr. Fish.

No. 364]

LEGATION OF THE UNITED STATES,
Port au Prince, May 8, 1875. (Received May 31.)

SIR: I have the honor to state that in consequence of measures inaugurated by this government on the first instant against certain of its citizens whom it deemed inimical or hostile to it, and whom it charged with conspiracy, this city, and indeed the whole surrounding country, have been thrown into inquietude and consternation; bad passions have been stirred up, violent language and violent acts have been evoked; persons have been shot down in the streets and in their homes, arbitrarily arrested, exiled, and outlawed; cannon have been fired upon a private dwelling in the city; my residence, as well as those of some of my colleagues, has been and still is occupied as an asylum by persons pursued by the authorities; my premises have been and are yet surrounded by armed men; by armed men in the public service I have been stopped on my way to my office in broad morning sunlight. I have had

personal conference and official correspondence with the government as well as free consultation with my colleagues relative to these proceedings, and the diplomatic corps have been summoned to the national palace.

The 1st of May is a national holiday in Hayti. It is the *fête* of agriculture, and every one seemed prepared for a day of rest and joy a week ago to-day, little dreaming, it appeared, of what was about to be inaugurated. I was unwell that morning, and did not reach my office till near 10 o'clock. On my way to town an aid-de-camp galloped up to me to say pleasantly that the President had remarked my absence from the ceremonies at the palace in the early morning. I had scarcely entered my office when, suddenly, discharges of musketry were heard in the immediate vicinity of my office. It proved to be an attack upon the residence of General P. Monplaisir Pierre, secretary of war under the Saget administration, and the only strong candidate for the presidency against Domingue last year, a citizen whose good conduct and excellent character I had never heard questioned. He had learned, during the early morning, that the government had decided to put him under arrest on the charge of conspiracy. He felt that he was innocent, and that this arrest meant for him an ignominious death. Accordingly he shut himself up alone in his house, and determined to resist to the last extremity what he considered an illegal and unjust attempt to deprive him alike of his honor, his liberty, and his life. For hours musketry and cannon bore upon his house. Even shells were fired from the cannon, to the danger of every one in the city. A piece of one of these deadly missiles fell in my yard, and I saw, during the firing, a poor English servant-boy, who was in no way concerned in the affair, shot down in the streets in the most brutal manner, within a few yards of my door, and right by the side of General Lorquet, who could have saved him.

Indeed, so great seemed the general danger from the manner in which the attack on General Pierre's house was conducted, that my colleague of Great Britain, Major Stuart, and myself, went together to the palace to tender our good offices for the cessation of the unwarrantable firing which was then taking place under government orders. The President received us with courtesy and dignity, and, in reply to our representations of the consternation created in the city by the almost random firing upon General Pierre's dwelling with cannon, said he regretted it quite as much as we did, but that he felt obliged to use force against the force which was being used to contravene his authority. The person or persons resisting, and not he, were, he thought, responsible. We suggested that other and more peaceful means might secure the arrest which was desired; but there seemed to be too much passion at the moment to obtain any direct assent to our proposals. While we were at the palace it was crowded by officials of all grades, and I heard the President give an order to put Port au Prince under martial-law, whereupon I suggested to him privately the inconvenience to which we should all be subjected by such a step, and the apparent lack of necessity for it. He seemed to agree with me in this, and quietly dropped the order, though it has since been virtually put in force. The impression of both my colleague and myself is, that our unofficial visit to the palace at a critical moment had a tendency to soften rising passions and to produce good generally. But the firing went on till General Pierre's house was riddled and he himself was killed, the telling shots from his rifle having meanwhile caused some sixteen of the attacking party to fall.

On returning to my office I learned that an attempt had, in the mean time, been going on for the arrest of General Brice, late Haytian minister plenipotentiary to Europe. A force of some thirty men was sent to his house, which stands directly across the street from the British and Spanish consulates.

It is reported that when the officer said to Brice, "General, I have come to arrest you," the latter demanded, according to law, to see the authority for his arrestation. The officer, pointing to his force of armed men, said, "There it is." Brice, who was taken quite unawares, replied "This is in plain violation of the law. I will resist it alone."

Thereupon he rushed into his house, seized some fire-arms, and made such a daring and fiery resistance that he alone actually drove before him the whole company of his assailants. But at last he fell severely wounded by a shot in the leg below the knee, and was dragged by some one from the middle of the street into the British consulate, where he died from loss of blood about 9 o'clock that evening. During the fight a ball entered the British consulate and severely wounded an employé there.

It is the opinion of my British colleagues that the shot was deliberately fired into the consulate by one of the government forces.

When I reached my house in the country late in the afternoon, heavy firing was heard in the distance. It was soon ascertained that at the same moment at which forces had been sent to arrest Generals Pierre and Brice one had been dispatched to secure General Boisrond Canal, in the vicinity of La Coupe. Like Pierre and Brice, he felt that his arrest in the manner attempted would be in flagrant violation of the law, and for him meant an ignominious death. Accordingly he decided to resist. He had four companions with him celebrating the *fête* for which the day was set apart, on his large plantation. These five men actually drove half a (Haytian) regiment before them, and fought their way to La Coupe. It was from this point that we heard the firing. When the attempt to arrest General Boisrond by force became known, people directly supposed that he might descend into the neighboring plains where his generous and manly character had made him popular, and there start a formidable movement against Domingue's government. But at intervals during the day of Sunday we heard firing at La Coupe. In the evening it ceased. We supposed then that all was over and retired in the full hope and prayer that violence was ended. But about 3 o'clock Monday morning a knock came to my bed-room door, and I heard unknown voices outside. On opening the door three men rushed past me, all covered with traces of exposure and fatigue. I asked who they were and what they wanted. A broad-shouldered mulatto with a handsome face, in which were pictured courage and generosity, said, "I am Boisrond Canal. These two young men are my relatives." "But," said I, impatiently, "what in the world are you doing here at this time of night?" "We have been ruthlessly, without shadow of law, attacked by a whole army," said he, drawing up to full height his manly form. "Five of us," continued he, "held them at bay for thirty-six hours, drove them back, evaded them, and fought our way here, intending to keep on to town. Two of our number fell in our contests. We are not in arms against the government; we are not enemies of society. We are fleeing for our lives before merciless pursuers acting outside of the law. We seek the protection of your flag."

I told them I did not see how I could protect them; but, to be frank, I could not turn them out when I knew that within two minutes, if I

should do so, and close my door behind them, they would be slaughtered without judgment or mercy. It may be that the instinct for humanity got the better of me. The men before me were not my personal friends. They had never visited my house before, nor I theirs. I had no merely personal interest in them. But I have faithfully described the manner in which they came upon my hands.

When day dawned I gave them a room, charged them to remain perfectly quiet, and went off to the city thinking to be able during the day to sense out the situation in their regard. I had scarcely arrived there when a dispatch came to me from the minister, (see inclosure A,) stating that the government had knowledge "that certain rebels had taken refuge in the house occupied by you (me) in the country;" and that it desired to know the names of these persons.

Many government officials came to my office during the morning, pretending that they had dropped in to pay me their respects; but they came really, as I am inclined to think, to try to draw from me information on the subject, in which they did not, of course, succeed. The city was full of excitement. Arbitrary arrests and imprisonments were made on all hands. Consternation prevailed everywhere, and persons were fleeing in all directions for refuge and security. Intemperate language and threats of violence against my premises were rife. To try to pour oil upon the troubled waters, I called later in the day on the President and on Minister Rameau, who were both very cordial toward me, and gave good attention to all that I said in behalf of moderation. But I could see that, even there, passion was ruling the hour.

Three gentlemen, named Alerte, Modé, and Iacithe, had, as an ordinary affair, passed Sunday at my house. But when they heard of the turn affairs had taken in town and at La Coupe, they said they would prefer to remain at my house over night. When I left Monday morning I did not see them, and had really forgotten that they were there. But during the day the district attorney, Mr. Pradine, who is a personal friend, said to me that he would like to go with me when I should go home, to see them; which he did. It seems that when he returned to the city he at once reported to the government that these three persons were in refuge at my house, which appears to have been taken as evidence that they were "enemies of the government." On reaching home the same afternoon, I found my habitation completely surrounded and watched by soldiers to the number of several hundred men, and I immediately wrote a note, (inclosure B,) making to the minister what I considered a just representation on the subject.

While descending to the city next morning, I was stopped by some soldiers posted by the roadside about a mile from my house. My horse's bridle was seized, swords were drawn, and the officer in command told me in answer to my protestations that I could neither return home nor proceed on my way to town without first listening to him. He and his men were from another locality in Hayti, and I believe that they did not really know me. I listened to his lecture on the necessity of obeying military authority, given with unction, in the creole language, in the presence of drawn sabers, and was then allowed to pass on. As soon as I reached my office I wrote to the minister (inclosure C) complaining of this treatment at the hands of men in the government service, and asking that the officers who took part in the indignity offered to me should be brought to a sense of responsibility for their conduct; that an explanation be made to me of their proceeding, and that it be not permitted to recur.

The same morning I also sent him an acknowledgment (inclosure D)

of his note of the 3d instant, in which, referring to the position taken on a former occasion in reference to the same subject, (see inclosure D to my No. 36, of January 15, 1870,) I declined to give him officially the names of the persons supposed to be in refuge at my house.

Shortly afterwards the minister sent me an official request, (inclosure E,) that I should deliver up to the government Messieurs Alerte, Modé, and Iacinthe. Meantime I had received rumors of a purpose to use force against my premises unless I yielded to the government's demand.

I think it is true that law-books were searched and that learned counsel was given to this end by the government. Indeed the case seemed so serious, that I thought it prudent to consult my diplomatic colleagues, and I was happy to find them in full accord with me in my view that I must not yield one inch to any menace inspired by the government or of any immunity that has been customarily accorded to foreign representatives of every grade in this country, and that if force came, I should protest against it and leave to whom it might concern the responsibility. My determination was soon understood, I know not by what means, at the government, and I forthwith got intimation of a disposition to receive milder counsels, which I thought it well to follow up by a personal call at the palace. The President was as cordial, cool, and dignified as usual in his manner. I ventured to sound him on the situation, and found that he responded sufficiently to admit of the introduction on my part of a guarded plea for moderation and temperate counsels, which was the fulfillment of the object of my visit.

Minister Rameau afterward sent for me, and as soon as I arrived at his bureau he began an argument on my right to receive refugees at my "country house," and then on my right to receive General Boisrond Canal as a refugee. I calmly told him that I did not suppose that he wished to develop any argument with me, and that if he wished to do so, it would be better perhaps to address me through the minister of foreign affairs.

We then dropped into an easy conversation, from which I gathered that the government was anxious lest its acts of the last four days should be misunderstood. I told him that he might be assured that any continuation of persecutions or any further violent acts on the part of his government would certainly be set down to its discredit abroad.

The next day I sent the minister of foreign affairs a response (inclosure F) to his demand for delivering up Messieurs Alerte, Modé, and Iacinthe, in which I declined to enter into any lengthy argument on the subject, and declined also to accede to his demand. Later in the day the minister sent a circular-note to the members of the diplomatic corps, inviting us to assemble at the palace at 4 o'clock afternoon, as "the government has (had) an important communication to make" to us. At the same time he sent us another dispatch "covering the proclamations of the government issued since the first instant."

* * * There are seven of them, three dated May 1st instant and four dated the 2d instant. Of the former, one is a long and somewhat passionate arraignment of the members of the opposition party who are charged with conspiracy against the government, and another is a decree banishing forty-four citizens from the country, in which are included the names of Messieurs Alerte, Modé, and Iacinthe, whom three days after the date of this decree the minister asked me to deliver up, a proceeding never before heard of in this country. Of the latter four proclamations one is a decree of outlawry against General Boisrond Canal and his associates, in which every citizen is called upon to shoot them down at sight, (*tout citoyen est appelé à leur courir sus.*)

The invitation to meet at the palace was answered by the presence there at the appointed hour of the ministers of the United States and Great Britain, the *chargés d'affaires* of France and Santo Domingo, and the consuls of Germany and Spain, who are also *quasi*-diplomatic representatives. There were also present the President, all his ministers of state, and nine senators. When we had all been received and seated in the usual way, the President said he had asked us to come together in order that he might explain to us the steps which the government had taken during the past few days. He said that when he came to power, he decided to adopt a policy of conciliation, to which he had strictly adhered, until, failing in all his advances and paternal conduct toward the leaders of the opposition, who had all been his lieutenants, he found that they were in actual and wide-spread conspiracy against the existence of himself and his government. It was only then, he said, that he felt obliged to call them to account; that they had even then responded by an attack of arms, and that what had been done by him was for the maintenance of the public order, the dignity of the law and of his government. As the actual dean of the diplomatic corps, I briefly acknowledged his excellency's remarks, and assured him that we all felt an interest in moderation and tranquillity. The English minister then told the President with unmistakable emphasis that his consulate had been deliberately fired upon by government troops during the attack upon General Brice. Minister Rameau tried to explain this away, but my colleague repeated his charge with energy, and said he knew it was true of his own knowledge. The Spanish representative said, in the same energetic manner, that his consulate had likewise been deliberately fired into by government troops. The severity of the manner of my two colleagues in making these statements had a perceptible effect upon all present. But after toasts had been proposed by the minister of foreign affairs and by the president of the senate, to which none of our body responded, we retired. As we were leaving, one of the ministers said to me rapidly in the Creole language, "Gracious me! It seems as if that man (Major Stuart) is hopelessly displeased with us."

On the 6th instant the minister sent me an acknowledgment (inclosure G) of my dispatches of the 3d and the 4th instant, in reference to the surrounding of my premises by soldiers and to the uncivil conduct shown me on the 4th instant while I was on my way to town. It struck me that his note might be considered satisfactory as far as it went, but that it scarcely covers the ground of my two dispatches to which it is intended to be an answer. I did not think it best, however, to make any further communication on the subject to him at the moment, under the circumstances.

On Friday (yesterday) morning the British minister, Major Stuart, called upon me to give me knowledge of a dispatch just received from the Earl of Derby, to which reference is made in my No. 362 of even date. As the dispatch touches upon the right of asylum, my colleague suggested that we should together call upon the minister of foreign affairs, convey to him the idea of the dispatch, and have an exchange of views with him on the public situation. We accordingly called at the minister's bureau, and when the Earl of Derby's dispatch had been in substance communicated to him, my colleague said to him, with unmistakable earnestness and candor, "Now, Mr. Minister, I wish it distinctly understood that from this day forward I shall receive and protect, as I may judge best, in my legation any and every person who

may apply for my protection. This I wish your government to understand well."

We then spoke to him of the decree of outlawry against General Boisrond Canal and his associates. We made known to him our abhorrence of the decree, and suggested its modification. We spoke to him, also, of the unfavorable impression which arbitrary arrests and other acts of severity would create in foreign countries, and made a plea for just and humane conduct. I am inclined to believe, and so is my colleague, that this interview will be promotive of good results.

* * * * *

We suppose that all that is herein stated was part of a well-matured plan in the nature of a *coup d'état*. We do not believe that there was any conspiracy on the part of the men who have been persecuted. There is as yet no evidence developed for us that such was the case. On the contrary, all the evidence within our reach up to this date leads the other way. The men persecuted were of the best citizens of the country. They had all entirely withdrawn from all kinds of political action, and each was quietly engaged in his own industrial pursuits. If there was any conspiracy, it was a wicked combination to fabricate testimony and pour it in simultaneously from different points upon the President against the unfortunate men who have been made to suffer.

I repeat that they were of the very best citizens of the country in all respects. The bravery, ability, and power with the people and with the better classes, as well as of men like Generals Pierre, Brice, and Canal, were known to no one better than to the President.

* * * * *

As to the refugees at my house, there will probably be no difficulty in embarking all of them except General Boisrond Canal and his two relatives. It is claimed by government partisans that they are criminals; that they have defied the law, and that they have criminally taken human life. But I may say, first of all, that not one of my colleagues—not a single impartial or unpartisan person here, to the best of my knowledge and belief, accepts these charges as true. The order for the arrest of Pierre, Brice, and Canal was in no way conformable to any law of the country. They knew, as we all know, that their arrest meant humiliation, banishment, or, more probably, ignominious death. I do not believe nor does one of my colleagues believe, that they can in any just sense be called violators of the law. They were attacked separately and in defiance of the law, and they defended themselves as best they could against overwhelming numbers and illegal violence. At any rate I will assume, if you will allow me to do so, the responsibility of asserting that General Boisrond Canal and the two young men with him at my house, whom I do not know, and in whom I have no personal interest aside from the innate American desire to see fair play and justice, are in no just sense criminals or violators of the law, and that they are as much entitled to the right of asylum as any other persons who have availed themselves of that right under our flag in this country during the past twenty years. I do not wish to defend the so-called right in any way. It is this government and other powers represented here that continue it, and not ourselves. I do not see how we can ignore it, in the face of the practice which has existed here for seventy years. I say this in full view of the opinion of the Department, so often expressed, with so much wisdom and forecast, on this subject.

Another fact is noticeable. The two other men who were supposed to be with General Boisrond Canal, and to have fallen during their contests, are known to be now safely in the British legation, or, more exactly,

in the British consulate. These two and the three with me are all under the same decree of outlawry. Yet the British consulate is not surrounded by troops, no official demand is made for their delivery, and there is no hunting up of laws at the government for pretexts and authority to seize the refugees by force from under the British flag. It must be stated, however, that General Boisrond Canal is the chief personage in the party sought out for vengeance; and, besides that, the three under our flag are in my house in the country and not in the city. I note this last fact in justice to a view which I understand this government pretends it wishes to take of the asylum given to General Canal.

It has been considered fortunate that my British colleague has had in this harbor during the occurrences herein narrated a man-of-war, and that my colleague of Spain has received response to his request for the presence here of an armed vessel of his government by the entry into these waters of the "Churruca" this evening. I could not quite see the entire judiciousness of telegraphing to you, as I was much urged to do, for a Government vessel, though it is clear enough to me now that if one had been here its presence would have exerted a wholesome influence.

It would even now strengthen our own moral force as compared with that of the other great powers represented in this country.

I shall keep you informed of any further significant developments that may be made in this singular political drama. I sincerely hope for the calming down of passion, and the speedy return of better and wiser counsels, though I must confess that the presence of a thousand armed men around my country residence, (which covers about fifteen acres,) with discontent stamped on their faces and Henry rifles in their hands, does not quite give the best possible ground for my hope.

I have, &c.,

EBENEZER D. BASSETT.

[A.—Inclosure 1 in No. 364.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, May 3, 1875.

Mr. MINISTER: It has come to the knowledge of the government that certain rebels, who these last days have resisted its authority in firing upon its troops, and who still resist, have taken refuge, they and their adherents, in the country house which you occupy at Turgean.

The government desires to know the names of these individuals, who have indeed killed this morning a soldier of one of our posts not far from your house.

I have the honor, Mr. Minister, to salute you with a very high consideration.

EXCELLENT,

Secretary of State for Foreign Affairs.

Mr. E. D. BASSETT,

Minister-Resident of the United States, Port au Prince.

[B.—Inclosure 2 in No. 364.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,
Port au Prince, May 3, 1875.

MONSIEUR: I have the honor to represent that my official residence is surrounded by large numbers of armed men, the roads and avenues of approach to my house are

guarded by soldiers of the government, the free ingress and egress of myself and my household are impeded thereby, and both myself and my household feel ourselves in personal danger by the presence of these armed men.

Such a surrounding of the official residence of a diplomatic agent of a friendly foreign power is a proceeding which can scarcely be justified under any circumstances.

It is liable to lead at any moment to unpleasant results. I have therefore to suggest to you, Mr. Minister, that these armed men be at once retired from such near vicinity of my residence, and to request that an explanation be made to me of the proceeding of which I here complain.

I am, monsieur, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

[C.—Inclosure 3 in No. 364.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,
Port au Prince, May 4, 1875.

MONSIEUR: I have the honor to inform you that while I was coming to my office this morning in company with my fellow-citizen Mr. Lazare, I was stopped by an armed band of men near the point where the Turgean road enters the Champ de Mars, the bridle of my horse was rudely seized by these men, deadly weapons were drawn upon us, in spite of all I could say, I was for several minutes prevented from either proceeding on my way to town or returning to my residence, and mean time unpleasant language was addressed to me by these men. My servant woman, Cesarine Davis, while coming to market this morning, was also stopped at the same place, and rudely treated. All these proceedings took place in the presence of the officers in command and with their active concurrence.

I have therefore to ask of you, Mr. Minister, that your agents who took part in the proceeding shall be brought to a sense of responsibility for their acts on this particular occasion; that an explanation of their extraordinary conduct toward the representative of the United States be made to me; and that such orders be given for the future as will prevent a recurrence of like disrespectful proceedings.

I am, monsieur, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

[D.—Inclosure 4 in No. 364.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,
Port au Prince, May 4, 1875.

MONSIEUR: Referring to your dispatch of yesterday, in which you ask me for a list of persons whom you suppose to be in my official residence, I have the honor to state that the same request was made to this legation in January, 1870, by your predecessor, Mr. T. Rameau, and that in the answer given by this legation January 13, 1870, to his request; occur these words:

"The persons who may have sought refuge under my flag are considered as being on the territory and under the protection of the United States.

"I guarantee that they shall in no way affect the public order while they remain here.

"It has been the uniform practice between the government of Hayti and the other powers represented here to furnish such list as you request solely with the view to the release or embarkation of the persons in refuge, and not at all for the purpose of affording the Haytian government the opportunity of searching them out, or putting in force its measures of police. In consideration of these facts, and in consideration of instructions to this legation from the United States Government relating to the subject, I must beg you to excuse me for the present from furnishing the requested list."

The question having been once thus officially decided, I beg you to believe that no other ground can now be taken in reference to it.

I am, monsieur, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

[E.—Inclosure 5 in No. 364.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, May 4, 1875.

MR. MINISTER: The government being informed that the persons named Nathan Modé, Alonzo Iacinthe, and Jean Alerte have taken refuge at your house, prays you to be pleased to deliver them up, (*vous prie de vouloir bien les lui livrer*), *sought out as they are by the government, according to the law.*

The government does not doubt that you will appreciate the present measure, dictated as it is by a sense of the most precious interests of the country.

Be pleased to accept, Mr. Minister, the new assurances of my very high consideration.

EXCELLENT,

Secretary of State for Foreign Affairs.

MR. EBENEZER D. BASSETT,

Minister-Resident of the United States, Port au Prince.

[F.—Inclosure 6 in No. 364.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,
Port au Prince, May 5, 1875.

MONSIEUR: I have had the honor to receive your dispatch of yesterday, in which you state that your government begs me to be pleased to deliver over to it the persons named Nathan Modé, Alonzo Iacinthe, and Jean Alerte, whom it supposes to be in refuge at the house of my official residence, and that the government does not doubt but that I will appreciate the step which is thus taken, and which is dictated by the consciousness of the precious interests of the country.

Your dispatch raises the subject of the right of asylum—a right which has been uniformly exercised by the representatives of foreign governments in Hayti since the foundation of Haytian independence. In no country on this hemisphere has this right been more frequently exercised or more fully consecrated than in Hayti during the past seventy years. In no single instance during all that number of years has such a request as you make ever been complied with. It would, indeed, seem extraordinary if now, in full view of all these facts, it should even be expected that the legation of the United States should be the first to accede to such a request. But I see no good reason for a discussion of the subject at this time, and I content myself, therefore, by simply asking you to excuse me for the present from a compliance with your request for the delivery of the persons named in your dispatch.

I am, monsieur, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,

Secretary of State for Foreign Affairs.

[G.—Inclosure 7 in No. 364.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, May 6, 1875.

MR. MINISTER: I have the honor to acknowledge the receipt of the dispatches which you addressed to me on the 3d and the 4th of the present month.

I regret infinitely, and so does the government, to learn that the respect to which you are entitled in your quality of representative of a friendly power should have been forgotten by the agents of the government, and that persons attached to your suite should have had to suffer by acts of these agents.

The government, Mr. Minister, in blaming the authors of these acts, however unintentionally they may have occurred, has given the most express orders, to the end that all the respect to which you are entitled in your aforesaid quality may be scrupulously observed by its agents, whoever they may be, and that the persons attached to your suite may be able to circulate with perfect freedom and security.

Be pleased to accept, Mr. Minister, the new assurance of my very high consideration.

EXCELLENT,

Secretary of State for Foreign Affairs.

MR. E. D. BASSETT.

No. 312.

Mr. Bassett to Mr. Fish.

No. 365.]

LEGATION OF THE UNITED STATES,
Port au Prince, May 19, 1875. (Received May 31.)

SIR: Referring to my No. 364, of the 8th instant, and especially to its inclosures A, D, E, and F, which relate to the asylum sought and obtained in the legation by persons under pursuit by the authorities of this government, I have the honor to state that I have had further correspondence and personal conference on the same subject with the minister of foreign affairs and his colleagues; that I have been successful in obtaining permission to embark, and have already embarked for foreign territory, Messieurs Alerte, Modé, and Iacinte, named in the inclosure F above referred to, also a Mr. Floriot, one of the supposed associates of General Boisrond Canal, and in connection with my colleague of Great Britain, Ex-Minister Ethéart, and Ex-Senator Duval, and that there are now left in asylum under our flag here only General Boisrond Canal and his younger brother.

Under date of the 8th instant the minister sent me a dispatch, (inclosure A,) in which, denying my right to extend asylum to General Canal, he insists that I should deliver him up, and notifies me that in case I cannot agree to the view of his dispatch, his government is decided to refer the question to Washington.

To this I returned answer (inclosure B) on the 12th instant, assuring him that I differed with him as to the application under existing circumstances of the view he had expressed, and that I maintained the tenor of my previous dispatches on the subject, which would of course call into operation his expressed purpose to refer the question to you, and by consequence, it seemed to me, suspend further official correspondence relative thereto between this legation and his government until his appeal could be heard from.

* * * * *

Accordingly, on the 14th instant, the minister addressed me another note, (inclosure C,) rather mildly worded, saying that his government had charged him to express to me anew, before submitting the question to Washington, its desire that I should deliver over General Boisrond Canal to "justice." I acknowledged receipt (inclosure D) of this note on the 17th instant, repeating the view expressed in my dispatch of the 5th instant, (see inclosure F to my No. 364,) and stating that no departure would for the present be made from any ground which we had heretofore taken on the subject.

It was while this correspondence was going on that I secured, by friendly personal representations to the minister and his colleagues, permission to embark my refugees other than General Boisrond Canal and his younger brother, and that my colleague of Great Britain also succeeded in obtaining a like permission to embark General Loyer Barreau, who was especially named in one of the government decrees with General Canal. These permissions were obtained in the face of a decree from the minister of interior announcing that all persons here included in the decree of banishment who did not quit the country within twenty-four hours would be considered outside of the law, and every citizen would be invited to shoot them down at sight.

I am not unaware that the ground taken in my several dispatches, marked as inclosures D and F to my No. 364, and B and D herewith sent, may not be in accord with the requirements of public law, as it is

recognized by states perfectly constituted and established; nor am I unmindful of the views entertained by the Department as they are expressed to me in your No. 24, of December 16, 1869, but circumstances seemed to crowd in upon me without warning, and in such a way as to leave me almost no choice. Men maddened by passion, inflamed, as I am credibly informed, by rum, and elated by consciousness of armed power, were pursuing their fellow-countrymen with red-handed violence. To have closed my door upon the men pursued would have been for me to deny them their last chance of escape from being brutally put to death before my eyes. I thought it my duty under the circumstances to do what I could to protect them from such a fate and to guard them until passion might cool and violence spend its force.

There are other grounds also for the tenor of my said dispatches. The right of asylum has never been renounced by this government. On the contrary; each successive administration has clung to that right, and practically, once or twice formally, refused to assent to its discontinuance. Only lately, as I had the honor of stating to you personally, when I was at the Department in November last, the work of completing our consular treaty with this government was arrested because the Haytian plenipotentiary would not agree to having the exercise of this right taken away from even our consulates in the inferior ports. And besides, no foreign power represented here has ever withdrawn the right from its legation in this country. Great Britain alone has formally prohibited the exercise of the right in its vice-consulates in this island, but it did this only after bombarding Cape Haytian in 1865 and humiliating Santo Domingo in 1873, in vindication of its perfect right to act solely according to its own pleasure as to the continuation of the practice of granting asylum in those consulates. It was partly in view of such facts as these, it may be supposed, that you instructed me in your No. 32, of February 4, 1870, that "since the custom is tolerated by the other great powers, the Department is not disposed to place the representative of the United States in an invidious position by positively forbidding him to continue the practice." I note also in the same dispatch your admonition to be discreet in exercising this tacit permission for its continuance.

Moreover, any weaker ground than that which I took in my said dispatches to the Haytian minister, would, in my opinion, have probably led to the invasion of my residence, violence against men under our protection, and a consequent humiliation of the American flag, unless, yielding in a cowardly manner to intimated menaces, I had delivered the men up. This may be called acting upon expedients rather than upon the full requirements of rigid law. But I am faithfully stating to you facts.

I firmly maintain all that is said in the last pages of my No. 364, in reference to * * * charges of conspiracy upon which men are persecuted, exiled, and outlawed, and in reference to General Boisrond Canal and his alleged associates. I do not think he, who is sought for with so much passion and ill-concealed desire for vengeance, is a criminal. * * * He is a man who, as far as I can learn, is without a personal enemy, although known everywhere in this country, both for his own manly character and as the grandson of General Boisrond Tonnerre, secretary to the Emperor Dessalines and the author of the declaration of Haytian independence.

* * * * *

The same method was adopted with me here in 1869 and 1870, when I protected numbers of Salnave's friends from violence, and had under

our flag, men who were then, as this man is now, charged with crimes, and declared outside of the law. It was adopted against Ex-Minister Haentjens, and more recently against Ex-Minister Lamothe, when each of these found refuge in the British legation; and I predict that it will continue to be adopted against every prominent man who, pursued by government wrath, may find himself under a foreign flag in this country.

* * * * *

Now this government has, it seems, taken an appeal to you, through Minister Preston, as to the case of General Boisrond Canal, just as it has recently appealed to Her Britannic Majesty's government in the case of Her Majesty's vice-consul at Port au Paix, (see my No. 360 of the 17th ultimo,) just as it wished to, and some way did make the same appeal in the case of Ex-Minister Lamothe, (see my No. 355, of April 9, 1875,) and as it appealed in 1873 to the French government in regard to the action of the French chargé d'affaires, on the claims question. I speak after a conscientious balancing of all the evidence within the reach of my six years' residence here, and a full knowledge of all these men, their habits of thought and action, after careful consultation with my diplomatic colleagues, who may be supposed to be in this case impartial men, when I say that I sincerely hope that my action in behalf of General Boisrond Canal may not be disapproved, that this government may receive no encouragement to look lightly upon our legation flag, and no encouragement to vent any instincts it may have against an honest man and worthy citizen who finds himself, certainly without any wish or desire of mine, under the protection of our flag. I do not wish to see our flag lowered before the eyes of foreign representatives here.

* * * * *

I beg you to believe also that if we were to accede to the demand to deliver up General Canal, this people, including the very men who make the demand, would despise us at heart, and inwardly execrate our conduct for being the first ever to yield to such a demand under any circumstances.

It has been the universal custom, in this country, to allow persons who have found asylum under the flag of a foreign representative, without regard to the charges or prejudices against such persons for the time being, to embark for foreign territory, or more rarely to return quietly to their homes. I know of no single instance where this rule has been departed from, by the government of Hayti, the affair at Cape Haytian in 1865, not falling strictly without this rule, and we certainly ought to be allowed to avail ourselves of it in the case of General Boisrond Canal. I would respectfully suggest, if you will permit me to do so, that an intimation to this effect be given to Mr. Preston, should he make his government's appeal to you in the matter.

I have trusted that my good personal relations with all the members of this government, and with all my colleagues, who feel naturally enough a lively interest in the question, would enable me to calm down passion, so that I might make the embarkation; and while still hoping to be able to accomplish this end, I must say that I have never found the chief of state more obstinate in any case than in this. He receives my representations about it in the most friendly manner, but says he must insist on the delivery over to the government of General Boisrond Canal, never mentioning his associate, General Calice Carrié, who is quietly in refuge at the British consulate. My premises are still surrounded by hundreds of armed men, watching every movement within, filling with fear and anxiety my household, giving us all no inconsider-

able annoyance, and rendering us liable at least to accident at any moment.

I think the friendly presence of one of our national vessels would add moral force to my representations to the authorities in these rather trying circumstances, as the presence of such vessels of Great Britain and Spain has already added to similar representations of my colleagues from those countries.

I am, &c.,

EBENEZER D. BASSETT.

[A.—Inclosure 1 in No. 365.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, May 8, 1875.

MR. MINISTER: I have had the honor to receive the letter which you addressed to me on the 4th instant, by which, in answering my dispatch of the 3d of this month, wherein I requested you to give me a list of the persons who had taken refuge at your house in consequence of recent events, you expressed to me your regret at not being able to accede to my demand because those persons are, according to you, upon the territory and under the protection of the United States.

My government, Mr. Minister, cannot place itself upon the same stand-point as that which you have taken in the appreciation of this matter. Its view is, that if the right of extritoriality insures to the representatives of foreign powers the inviolability of their persons and residences, it does not acknowledge their power to give asylum to and to protect any category of criminals belonging to the country where they are accredited.

On the contrary, and more particularly, the treaty of extradition concluded between Hayti and the United States of America, on the 20th of August, 1865, by virtue of articles 38, 39, and 40, leaves no room for the admission that this asylum and this protection can be accorded to persons placed in the condition of General Boisrond Canal and his accomplices, who are sought out for criminal acts, and not on account of political offenses, for which alone the 41st article of the said treaty might be invoked.

Under these considerations, my government believes itself to have good grounds for insisting, as it does insist, that in the interest of public security, (*de la sûreté de l'État*;) you should deliver up to it General Boisrond Canal and his accomplices, and it is its desire in this matter that I transmit to you by the present dispatch.

Be pleased to accept, Mr. Minister, the renewed assurance of my high consideration.

EXCELLENT,
Secretary of State for Foreign Affairs.

P. S.—If, against the expectation of the government, it should happen that we cannot agree in our views relative to the subject with which we are occupied in this correspondence, I am charged by the government to announce to you its intention, now already resolved upon, to submit the question to the appreciation of the Government, at Washington, (*Cabinet des États-Unis.*)

EXCELLENT.

Mr. E. D. BASSETT,
United States Minister-Resident.

[B.—Inclosure 2 in No. 365.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,
Port au Prince, May 12, 1875.

MONSIEUR: I have had the honor to receive your dispatch of the 8th instant acknowledging receipt of mine of the 4th instant relative to persons who may have taken refuge under my flag. I regret that the pressure of work on hand for the packet which has only left this noon, and my poor health, have prevented me from giving you a more prompt response.

I do not propose to follow you in your discussion of the points of public law which you raise in your dispatch. I beg leave to differ with you as to the application, under existing circumstances, of the view which you express, and to maintain the tenor of my previous dispatches on the subject.

I take due note of the intention of your government, in this circumstance, to refer the case to the Government at Washington. This procedure will, necessarily, suspend further official communication on the subject between the legation and your government until some result of your appeal to Washington can be heard from.

I have the honor to be, Monsieur, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

[C.—Inclosure 3 in No. 365.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, May 14, 1875.

MR. MINISTER: I have had the honor to receive your letter of the 12th instant in response to mine of the 8th of this month relative to persons who have been able to find refuge with you, (*chez vous.*)

Before the government submits to the appreciation of the Cabinet at Washington the case of General Boisrond Canal, it charges me to express to you anew its desire to see you deliver over to it this general, who, finding himself within the scope (*sous le coup*) of articles 33 and 39 of the treaty of extradition concluded between Hayti and the United States of America, as I have had the honor to announce it to you previously, renders well founded the demand which the government has addressed to you in respect to him, in the object of giving him over to justice.

The government is well persuaded, Mr. Minister, that after a new examination, which it prays you to be pleased to make, of the case, you will recognize the legitimacy of its demand and accede to its desire, convinced, as you will be, that the American Government will not view the case differently.

Be pleased to accept, Mr. Minister, the new assurances of my very high consideration.

EXCELLENT,
Secretary of State for Foreign Affairs.

MR. E. D. BASSETT,
Minister-Resident of the United States, Port au Prince.

[D.—Inclosure 4 in No. 365.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,
Port au Prince, May 17, 1875.

MONSIEUR: Asking your special reference to your dispatch of the 8th instant and to mine of the 12th instant in reply thereto, I have the honor to state that the respect which my Government and myself entertain for your government, and especially for President Domingue, impels me to acknowledge the receipt of your note of the 14th instant, in which you announce to me that your government, before it submits to the appreciation of the Cabinet at Washington the case of General Boisrond Canal, has charged you to express to me anew its desire to see me deliver over to it this general.

In the dispatch which I addressed to you on the 5th instant I had the honor to ask your attention to the fact that the right of asylum has been uniformly exercised by foreign representatives of every grade in Hayti since the foundation of Haytian independence. In no country on this hemisphere has this right been more frequently exercised or more fully consecrated than in Hayti during the past seventy years. And yet in no single instance during all that number of years has such a request as you make ever been complied with, either in Hayti, or, as I am inclined to believe, in any other country in the world. Is it possible, in view of these facts, that you should expect this legation to be the first to set the example of delivering up before the civilized world any one who has once found an asylum under its flag? We have a friendly disposition toward your government. We shall be happy to comply with its well-founded desires

on all suitable occasions. We wish to oblige it. But I beg you to believe us that no departure will, for the present, be made from any ground which we have heretofore taken upon the subject to which your note of the 14th instant relates.

I am, &c., &c.,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

No. 313.

Mr. Fish to Mr. Bassett.

No. 227.]

DEPARTMENT OF STATE,
Washington, June 4, 1875.

SIR: Your dispatches numbered 364 and 365, of the 8th and 19th ultimo, respectively, have been received. They relate to the recent disturbances at Port au Prince, and to persons who have sought an asylum in the legation. It is regretted that you deemed yourself justified by an impulse of humanity to grant such an asylum. You have repeatedly been instructed that such a practice has no basis in public law, and, so far as this Government is concerned, is believed to be contrary to all sound policy. The course of the diplomatic representatives of other countries in receiving political refugees upon such occasions is not deemed sufficient to warrant this Government in sanctioning a similar step on the part of the representatives of the United States. Among other objections to granting such an asylum it may be remarked that that act obviously tends so far to incite conspiracies against governments, that if persons charged with offenses can be sure of being screened in a foreign legation from arrest they will be much more apt to attempt the overthrow of authority than if such a place of refuge were not open to them.

Mr. Preston has been here by order of his government to ask that you may be directed to set at large the refugees who have sought your protection. I answered him, however, that though it might have been preferable that you should not have received those persons, it was not deemed expedient to comply with his request. I added that if his government would apply to you for them, in order that they might be tried, you would be authorized to give them up, provided the government gives you its assurance that no punishment shall result from the trial, but that, if convicted, the parties will be allowed, without molestation, to leave the country. If, too, the persons who are with you should themselves or through you offer to surrender to the authorities on the same condition, and should it be acceptable, you will dismiss them.

Your course in this matter will be governed accordingly.

I am, &c.,

HAMILTON FISH.

No. 314.

Mr. Bassett to Mr. Fish.

No. 368.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 8, 1875. (Received June 24.)

SIR: Referring to my No. 365 of the 19th ultimo, in which a statement was made as to the asylum given to General Boisrond Canal, and

some of his supposed associates, in my residence, and in the British consulate, I have the honor to represent that, on the 24th ultimo, the minister of foreign affairs made, upon my colleague, the British minister, a demand, similar to that which he had made upon me, as to Boisrond Canal, nearly three weeks previously, for the delivery over to the authorities of General Calice Carrié, and that my colleague at once responded that General Carrié was in refuge at his office, but that inasmuch as if he were to accede to the demand made for Carrié's delivery, he would break in upon a custom established, consecrated, and always approved of in this country, he could not assent to the demand, and would not deliver up the person in question.

I have been informed that this government has referred the case to Her Majesty's government through its chargé d'affaires at London.

I am, &c.,

EBENEZER D. BASSETT.

No. 315.

Mr. Bassett to Mr. Fish.

No. 370.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 8, 1875. (Received June 24.)

SIR: Referring to my No. 355 of the 9th of April last, and to my No. 362 of the 8th ultimo, both of which touch upon the asylum given in the British legation to Ex-Minister Lamothe, I have the honor to state that, notwithstanding the guarantee given to my colleague of Great Britain, for the security of General Lamothe against irregular proceedings in his regard, and notwithstanding the fact that, according to the constitution, he can be tried and judged only by the senate, he received a summons to appear before a criminal tribunal on the 28th ultimo, and immediately thereafter again betook himself to the British legation, where refuge was again extended to him.

On the 31st ultimo my colleague went to President Domingue and represented the case to His Excellency in view of the guarantee that had been given for the general's security. The President said he knew nothing of the attempted irregular and illegal proceedings against the general, and he would renew the guarantee in his behalf. After waiting for several days for the promised guarantee, my colleague sent a note about it to the minister of foreign affairs, and to-day received another assurance that General Lamothe could resume his liberty.

There is something in this case which may not be readily understood abroad. General Lamothe was one of sixteen ministers of state under the Saget administration. No one of the fifteen others has, as I am well informed, rendered his accounts or been asked to do so. Lamothe was not minister of finance, and had no direct access to public funds. The moneys for the service of his department were all duly voted by the cabinet from the budget passed by the Corps Législatif. One of his colleagues was a nephew of President Domingue, and a brother of the present minister, Rameau. Of course ex-Minister Rameau has never been called in question, while Lamothe is sought after. The real reason for pursuing Lamothe is, as I am most reluctantly led to believe, that he is a black man of great experience in the public affairs of his country, and of decidedly superior intelligence, and that there is a pos-

sibility in his case, as there was in the cases of Generals Pierre, Brice, and Boisrond Canal, that he may some day loom up at the call of his countrymen as Domingue's successor.

I am, &c.,

EBENEZER D. BASSETT.

No. 316.

Mr. Bassett to Mr. Fish.

No. 372.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 8, 1875. (Received June 24.)

SIR: Inviting reference to my No. 364 of the 8th, and my No. 365 of the 19th ultimo, I have the honor to refer you to an inclosed article giving the history of events which occurred here on the 1st ultimo. The article is signed by the brother of General Brice, but is understood to express the views of that affair entertained by the intelligent and influential gentlemen who find themselves exiled by this government. I commend it to your attention. It is written without passion, and confines itself to facts. You will see that it, in effect, supports the view expressed in my No. 364.

I must inform you that General Boisrond Canal is still in refuge at my country residence, which is, in consequence, still surrounded by hundreds of armed troops of the government. The prevailing sentiment is unmistakably in favor of that distinguished citizen, and in our favor, because we have firmly protected him against violence. I do not make this remark without full knowledge of what I am recording.

I shall seek an early opportunity to give you my estimate of the policy which has inspired dreadful persecutions and called down upon the country a reign of terror. I maintain my excellent personal relations with everybody here, and have, of course, given all the moral power of my official position in favor of moderation and humanity. But the awful fact stares me in the face that we here are all under a reign of terror. The very worst that was apprehended from Domingue's government has arrived. Men are still flying in every direction for safety, and no citizen knows from day to day what may be his fate. But I still think that President Domingue is deceived.

I am, sir, &c.,

EBENEZER D. BASSETT.

(Inclosure in No. 372.)

Mr. Brice to the editor of the Gleaner.

[From the Gleaner, Kingston, Jamaica, Saturday, 15th May, 1875.]

SIR: Your issue of the 7th instant contains an article headed "Insurrection in Port au Prince," on the event which took place lately in Hayti. Being in Kingston, where I have been obliged to take refuge from the persecutions of the government of General Domingue, that article came under my notice.

I am the younger brother of the late General Brice, one of the victims of that bloody drama.

General Brice, after having served the republic as minister plenipotentiary at Paris, London, Madrid, and Berlin, and as president of the last chamber of representatives, which General Domingue dissolved by a *coup d'etat*, retired into private life and devoted

himself entirely and resolutely to the direction of the largest industrial enterprise ever undertaken or established in Hayti, and which he himself had inaugurated. It is therefore my duty to forget for a moment the grief which afflicts me for the loss of my brother, to contradict the statements contained in the article which you have published, as they may not only prove prejudicial to the interests which my late brother had at stake in Hayti as well as in Europe, but carry with them a stain on his memory, if the circumstances of his death should be misrepresented.

I have the right, and I feel it a duty, to say as much for General P. Montplaisir Pierre, being connected with him by family ties, and for General Boisrond Canal, an intimate friend of my brother and of my family.

It is made to appear from the sources from which the correspondent of the New York Herald got his information, and which he furnished to you, that a conspiracy long prepared existed against General Domingue, headed by Generals Montplaisir Pierre, Brice, and Canal, and that it was to prevent the explosion of this conspiracy that the government ordered the arrests which had such fatal result.

It is now nearly a year since General Domingue has assumed power violently, and while he was preparing, with the connivance of the late president, General Nissage Saget, to violate the then existing constitution, to uphold which, however, they had shot Salnave, Generals Brice, M. Pierre, and Boisrond Canal were, the first president of the chamber, the others senators of the republic—these personages, illustrious by their military services, enjoyed an eminent position in the country.

Brice and Boisrond Canal put an end to the war by the memorable fall of Port au Prince. Brice and Montplaisir Pierre had saved on more than one occasion the city of Aux Cayes, defended, be it remembered, by this same Domingue, who was on the point of surrendering to Salnave, being reduced to the last extremity. They discharged their duties as legislators, and remained faithful to the constitution which has caused the country so many sacrifices; and notwithstanding such an unheard-of attack against legality as committed by General Domingue, they did not like to profit by the facility of success which an appeal to arms would have secured from public indignation. The prospect of a general conflagration and the horrors of another civil war imposed upon them the duty of a patriotic withdrawal. They accordingly entered into private life, leaving General Domingue to try the experiment of a power founded on violence and despotism.

How could it be supposed by any one acquainted with these circumstances (and all in Hayti know them) that such resolution taken by these men after mature consideration, with a judgment well versed in all the political changes of their country, would have been changed suddenly, without any real or apparent motive, before the manifest impotence of a government which has for its chief an aged man of seventy-six years, already near his tomb, and who, by the pursuit of a calamitous policy, was the most active author of his approaching fall? Men like Brice, Pierre, and Canal must be supposed to have good sense, seeing the part they have played in their country's history, and one ought to reflect well before attempting to invalidate their intelligence and their reason solely for the purpose of tarnishing their memory and relieving others from responsibility.

That General Domingue, troubled by the remorse of a guilty conscience before his country and his countrymen, should constantly see menace in the dignified attitude of his old companions in arms, who had remained faithful to the principles which brought them prominently before their country, and who would be called upon by the force of circumstances to repair the error and misfortunes which have borne upon the country; that he should see in their legitimate estrangement from his government a hostility against his usurped power, and a continued protest against his conduct, as well as a danger to his authority—these are sentiments upon which we need not insist to prove the germ of secret designs and machiavelian combinations.

The government only looked for a favorable opportunity to put in force these combinations, and it presented itself in the project of a tour of General Domingue to the north of the republic to reassure the people, whose restless agitations were on the increase. How, then, under such critical circumstances, leave at the capital men whom the government consider as their enemies, and whose influence was daily augmenting through the very discredit of the government, and who were rising in public esteem and consideration as the government was losing ground? But, on the other hand, would it not be a very impolitic step to carry by force in a tour, uncertain and full of perils, such honorable citizens, who would be looked upon by the people as an example of the manner in which the government respect the rights of the citizens, and who could be also dangerous witnesses of the decreasing prestige of the government and of the consequently increasing disaffection of the people?

These alternatives were examined, discussed, and well considered, and the government came to the simplest and most brutal conclusion. This was to invent a specious pretext under cover of which to secure the arrest of the three generals already named, and, when in the power of the government, prepare and forge the crime of which they were to be accused.

The tour of the president was fixed for the 5th instant, and on the 30th ultimo, at night, it was decided at a meeting of the secretaries of state to arrest the three generals the next morning, 1st May, anniversary of the Feast of Agriculture. In the mean time a rumor was put in circulation that these men intended to put themselves at the head of a pretended insurrectionary movement which they had been organizing for some time past.

But what were these men, upon whom the imputation of conspirators was cast, doing all this time? General Brice had spent the week, as usual for the last twelve months, on his estate, situated on the plains of Port au Prince, attending to the cutting of logwood, one of the principal articles of his business. He arrived in town on the night of the 30th April, and took some medicine on Saturday morning, the 1st of May, and was on that day resting and keeping quiet from the fatigues of his few days' previous labor.

General M. Pierre was alone at home, not one of his sons with him; not one of them was even at Port au Prince; one of them had left the capital on the 26th of April for L'anse à Veau. General Boisron d Canal was twelve miles from Port au Prince on the estate "Frere," on which he had been working for nearly ten years, and on which he established two schools. In the midst of his family and friends he was enjoying the pleasures of the country, and celebrating the day.

Who, then, who has a conscience and a heart, or even the most superficial discernment, could dare to affirm upon oath, or upon his honor, that he believed that these three men, who had distinguished themselves before in the service of their country on the field of battle, had prepared a revolutionary movement, isolated as they were, and under the particular circumstances in which they found themselves on the morning of the 1st of May?

Nevertheless the plan agreed upon is to be carried out. With the troops of the garrison and his escort, General Domingue returns to the palace after hearing mass and going through the ceremonies of the Feast of Agriculture, which nothing interrupts, extra rations are distributed to the troops, and soldiers specially selected are treated with intoxicating liquors, and receive instructions and orders what to do, and how to act. I should mention here that the persons who furnished information to the correspondent of the New York Herald cannot ignore what the constitution and the laws of Hayti prescribe in matter of arrest, not only the constitution which has been set aside, but the one which Domingue himself has sworn to obey. According to the 18th article of that constitution, "To execute a warrant which orders the arrest of any one, it is required that the warrant shall first express formally the motive of the arrest and the articles of the law in virtue of which such arrest is ordered. 2d. That the warrant shall proceed from the proper and competent authority to issue the same. 3d. That the persons so arrested ought to be notified and a copy of the warrant left with them; all arrests made outside the law and without the forms prescribed by it, all violence or rigor employed in the execution of a warrant, are arbitrary acts against which every one has a right of protesting."

The functionaries to whom the law gives this power are the attorney-general, the justices of the peace, and the judge of instruction. Not one of them has been mentioned, not one of them was present at the late attempt at arrest; it was the military authorities alone who acted.

It has been attempted to make the communal magistrate and his police force interfere, but the communal magistrate has no jurisdiction in the premises whatever; he is only a simple administrator of the commune. But there is more. The present constitution has deprived the commune of the right of nominating its magistrates, and it is the government that appoints him, and the police are now under the immediate orders of the government, and are to-day a military force.

What then could signify an order to surrender to the authority given under such circumstances and to such men to those who know the practice of General Domingue and his agents against all persons considered as their enemies, practice which numerous facts have already disclosed, and which are no secret, therefore, to any one in Hayti? Such an order was only a sentence of death.

But what time was left even for a single reflection? The commander of the district, General Boileau Laforest, who had formerly served under the orders of General Brice, was followed by a detachment of troops, commanded by General Leger, the secretary and favorite of General Domingue, and who possesses all his confidence. General Laforest entered the house of General Brice only to intimate to him the order for his arrest, and to hear the demand on the part of Brice to see the legal warrant for such proceeding. He embraced Brice and left the house on one side, while on the other the soldiers arrived formed into line and opened fire. I leave to others to describe the details of a drama which I am not able to do myself.

General Brice, wounded in such a sudden attack while defending himself with that heroism which in him was custom, is taken to the British legation, facing his own house, after having dispersed his assailants with that energy and valor so well known in Hayti. There he is deprived of medical assistance, which might have saved him, by

the orders of the government, and the house of the British minister is surrounded to prevent all communication. An Englishman in the employ of General Brice is shot in front of the legation, as, having heard that the general was wounded, he was trying to go to him. The British minister himself did all he could to get a medical man at night to go and see General Brice, but it was too late; the power of science could do nothing.

With regard to General M. Pierre, it was not a few armed soldiers that were sent to arrest him; it was an army of three hundred men with three pieces of artillery, having at its head the commander of the department of the west, General P. Lorquest; the roar of cannon is heard in a city surprised and alarmed, attacking a private dwelling in which there was only one man with a young servant of twelve years at his side. This man, however, kept his assailants at a distance for three hours, and, at last exhausted, only left them his corpse. After the pillage of the house by the soldiers of order, the body of Mr. Pierre was taken in triumph to the national palace, where it remained for two hours under the eye of General Domingue. It was then removed and interred without a coffin in the ground reserved for criminals; it is in this same spot that the body of General Brice was buried.

The authorities at this time became exasperated and determined to give no time for reflection to the people and thereby paralyze the consummation of the acts which had been deliberately resolved upon; but the third victim, designated beforehand, General Boisrond Canal, was to escape from what the correspondent of the New York Herald calls, perhaps without understanding the full import of its meaning, an ominous *piège*. All the precautions to prevent this were, however, taken by the authorities.

While the arrest of the two generals was taking place in the city, a body of cavalry, not accompanied by any civil judicial authority, was sent out in the direction of the Frere estate, and for better security they shot, on the road, a man on horseback who was going to General Boisrond Canal to give him warning. This officer, however, was not taken by surprise. Surrounded by some members of his family and other friends, he routed the cavalry sent to apprehend him, and advanced on Petionville, where his knowledge of the ground, the irresolution of the troops to commit such an odious attempt far from the seat of government, and the sympathy of the people came to his succor. A reinforcement was sent against him, and after struggling for two days with the assistance of his friends against the force of the government, he left Petionville and took refuge at the American legation.

The correspondent of the New York Herald—that is to say, of one of the leading papers of the United States—is desirous of seeing the right of asylum disowned by the American minister on the present occasion, notwithstanding that it is a right in which most governments are interested, particularly in countries like Hayti, as it is based on the principles of justice and humanity. I do not like to make any comments on the opinion of the correspondent, having too much respect for the people of the United States, for their Government, and for their minister in Hayti.

I have given you a true statement of the events at Port au Prince. Laws cannot be violated with impunity; and those who prepare crime and deliberately execute it cannot reckon upon the support of public conscience.

I beg of your impartiality the publication of this in your columns, and remain, sir,
Your obedient servant,

H. BRICE.

No. 317.

Mr. Bassett to Mr. Fish.

No. 374.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 24, 1875. (Received July 6.)

SIR: I have the honor to acknowledge the receipt of your dispatch numbered 227, and dated June 4th instant, in which you convey to me an unfavorable judgment upon my conduct in receiving under our flag here political refugees, and authorize me to give them up if this government should apply to me for them in order that they may be tried, provided it gives me its assurance that no punishment shall result from the trial, but that if convicted they shall be allowed without molestation to leave the country, and in which you further instruct me, that if

the refugees themselves should offer to surrender to the authorities on the same condition, and it should be accepted, I shall dismiss them.

I thank you very sincerely for your statement to Mr. Preston in response to his official request for the setting at large of the refugees under the flag of this legation, to the effect that it was not deemed expedient to comply with his request. I thank you also for the considerate manner in which you have been pleased to dispose of the case, and I hardly need say that I shall of course be guided by your instructions relative thereto.

There is a wide spread popular feeling existing here on the subject of these refugees, and particularly in regard to the case of General Boisrond Canal. The refugee under the flag of my British colleague is, I learn, to be tried *par contumace*, with some sort of verbal understanding that he will very likely be condemned to capital punishment, and then will have his sentence commuted to perpetual banishment. But the case of this person and that of Canal *jeune*, at my house, are not the ones that make the question so difficult of solution.

The only difficulty is that which centers in the case of Boisrond Canal. The persons with me would not be willing to surrender to the authorities under any assurances from this government, as they have no confidence in its good faith. The government has not yet shown a disposition which would warrant me in surrendering the refugees upon the terms of the other feature of your instruction. The result is that this person is still at my house, and that my premises are still surrounded by hundreds of armed men, whose presence subjects me and my household to every inconvenience and anxiety, and I think to some danger also.

I shall not infringe upon or deviate from the terms or spirit of your instructions. I have, since the date of my last dispatch to you, some further communication and conference relative to the question; but having still hope that I may at last succeed by my personal good offices in securing the safe embarkation of the refugees according to the terms of your dispatch, in a satisfactory manner, I venture to delay, until the next opportunity of communicating with New York, the sending forward of a full record of my proceeding in this regard. I regret that my health will not allow me to prepare for this mail the statement of the political situation which is promised in my No. 372, of the 8th instant.

I am, &c.,

EBENEZER D. BASSETT.

No. 318.

Mr. Bassett to Mr. Fish.

No. 378.]

LEGATION OF THE UNITED STATES,
Port au Prince, June 26, 1875. (Received July 6.)

SIR: Since I wrote my dispatch No. 374 of day before yesterday's date, I have caused to be well sounded the Haytien authorities as to their disposition in the case of General Boisrond Canal in the light of your instructions, and the result is that I have become almost satisfied that the men who control the President and the policy of this government * * *

are in no way disposed to yield anything of their determination to lay violent hands upon that person, and that my efforts of good-will in the

matter seem to me to be almost, if not quite, now brought to an end by their unfortunate disposition and conduct.

The armed men around my premises place me and my household, according to the best judgment of discreet men here, in personal danger, and render my house here one of constant insecurity, annoyance, and anxiety. This state of affairs seems at times alike almost incredible and, as you may readily conceive, unendurable. It is new even in this country. It has been stated to me that special orders are given to the soldiers around my house to keep up a noisy cry every night, from early evening until the next morning, for the express purpose of annoying me and my household, with the idea of worrying me out, and thus obtaining, by such means, the end had in view as to Boisrond Canal.

I am aware how much better it would have been not to have felt authorized or obliged, under whatever circumstances, to incur, in the first instance, any responsibility in the case, and no one can regret more than I do that peculiar circumstances at the moment appeared to leave me no choice as to that first step in this unfortunate affair. But we now find ourselves in the full face of a stern actuality, which, it seems to me, ought to be met in some way alike honorable and consistent with the dignity of our flag. In this view I respectfully renew to you the recommendation made in my No. 366, of the 21st ultimo, for the friendly presence of a national vessel in these waters.

I am, &c.,

EBENEZER D. BASSETT.

No. 319.

Mr. Fish to Mr. Bassett.

No. 231.]

DEPARTMENT OF STATE,
Washington, July 1, 1875.

SIR: I transmit a copy of a note of the 25th ultimo, addressed to this Department by Mr. Preston, the minister of Hayti accredited to this Government. It relates to the asylum which you thought proper to grant to political refugees in that country, and represents that you had not complied with a request which had been made of you by the government to furnish it with a list of them. It also says that some of them were received at your legation with arms and ammunition. As your dispatches have been silent upon these points, an explanation in regard to them will be desirable.

It is presumed that the decisive course which you have thought proper to adopt in regard to the refugees adverted to has been taken in full view of your accountability, not only to your own Government, but to that to which you are accredited. Whatever may be our disposition to receive reasons to palliate or justify your proceedings, it is still in the power of the Haytian government to refuse to be satisfied with them. This is a consideration which should always be borne in mind by a diplomatic agent. While he should not allow it to affect his sense of duty, he should be well aware of the consequence which may attend its conscientious discharge.

I am, &c.,

HAMILTON FISH.

No. 320.

Mr. Bassett to Mr. Fish.

No. 381.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 16, 1875. (Received July 26.)

SIR: An English schooner, called the "Laura Pride," of Turk's Island, Capt. J. W. Stevens, of the burden of one hundred and five tons or thereabouts, left New York on the 1st of June, ultimo, chartered by a Mr. Hollander, laden with sixty-five tons of coal, with arms and ammunition shipped by a Mr. Burnette, a small supply of provisions, and a few agricultural implements; the arms and ammunition being consigned to the Haytian minister of war and marine, the coals to order, and the rest of the cargo to a Mr. Fernandez, a Cuban employed as a professor in the national college here, and generally understood to be an agent of the Cuban insurgents.

When she cast anchor in this harbor on the 27th ultimo, she was immediately thereafter boarded by Mr. Fernandez, who is said to have represented himself as authorized to direct, and, in fact, to have actually directed, Captain Stevens to land his cargo, including the arms and ammunition, at a place called the Platform, on the northern coast, beyond the Môle St. Nicholas. At this time a Spanish war-vessel, the Churruca, appeared in the outer harbor. Inquieted alike by Mr. Fernandez's speech and manner, and by the approach of the Spanish war-vessel, Captain Stevens promptly declined to act upon Mr. Fernandez's statements, and came to the British vice-consulate, giving to my colleague his ship's papers and an account of Mr. Fernandez's visit aboard, at the same time expressing his suspicions and protesting his ignorance of a design on the part of the Cuban agents in New York to press him and his vessel into their service. The result of the conversation was that my colleague, Mr. Byron, informally notified the Spanish consul and the authorities of this government of the facts in the case.

Thereupon our Spanish colleague and his naval commander, who had obtained full and precise information of the schooner's departure from New York, and of the very details of her cargo, went to the government to denounce the "Laura Pride," to demand that her cargo be seized, confiscated, and handed over to them, that Mr. Fernandez be dismissed from the public employ, and that Mr. Preston, Haytian minister at Washington, who had, according to Captain Stevens's statement, in some way sanctioned the shipment of the arms and ammunition to the government, be also dismissed from his office as minister.

The government promptly disowned all knowledge of or participation in the shipment of the war material, agreed to dismiss Mr. Fernandez from the public service, pretending to be astonished and offended at his conduct relative to the schooner, and pretending also to know nothing of his alleged connection with Cuban insurgents. It also agreed to cause all the schooner's cargo to be discharged and placed in depot here, (see inclosure A,) and to inquire into Mr. Preston's alleged conduct in consenting to the vessel's departure from New York for this port with the war material on board.

But it would seem that the difficulty is not yet fully arranged. The Spanish representative now distinctly demands that the arms and ammunition be handed over to him, and that Mr. Fernandez receive some further mark of the disapprobation of this government, such as that he be expelled from Haytian territory or delivered over to the Spanish authorities. This my colleague of Spain himself tells me. On the other hand,

my British colleague, Mr. Byron, denies the right of any one to touch, except by a regular commercial transaction, that part of the schooner's cargo, the coal, which was consigned to order, and has, I believe, entered a protest in that sense. Two Spanish war-steamers, the "Churruca" and the "Bazan," are in the harbor. But I anticipate an amicable settlement of the whole affair at an early day.

I am, &c.,

EBENEZER D. BASSETT.

[Inclosure in No. 381.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, July 3, 1875.

MR. MINISTER: I have the honor to inform you that the English schooner "Laura Pride" arrived at Port au Prince, from New York, the 27th ultimo. As the cargo of this vessel is composed, among other objects, of a certain quantity of arms and ammunition, which have been addressed (consigned) to the Haytian minister of war, when the government has given no command (order) of this nature, I bring to your knowledge that, in virtue of the decision of the cabinet, these arms and ammunitions, as well as the rest of the cargo of the vessel, will be discharged and held in depot until some new disposition on the part of the government.

Be pleased, Mr. Minister, to accept the new assurances of my high consideration.
EXCELLENT.

MR. E. D. BASSETT,
Minister Resident of the United States, Port au Prince.

No. 321.

Mr. Bassett to Mr. Fish.

No. 383.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 16, 1875. (Received July 26.)

SIR: I have the honor to represent that, since the writing of my No. 378, of the 27th ultimo, there has been no essential change in the situation relative to the refugees under our flag here. The refugees are still at my house. My premises are still surrounded and closely watched by armed men in a most needlessly offensive and insolent manner, and this government, still persisting in its original demand for the refugees, manifests no disposition to come to an arrangement of the unfortunate difficulty. The situation in this regard has awakened a widespread and lively interest everywhere in this country. Through my colleagues and others it has also been made a subject of communication to foreign lands. No occurrence in this country for the past thirty years and more, not even its so-called civil wars, has excited so deep an interest or caused so much feeling. People everywhere here are deeply concerned about it, nay, amazed at it; and it has a perceptible effect upon some of the ordinary commercial transactions. The conduct of this government in the case is wholly unprecedented in its history; first of all, in refusing the traditional permission to embark the refugees for foreign territory, and then in refusing to accept, or rather ignoring, your decision upon an appeal which the government itself made to you. No similar conduct has ever been observed by any previous government in Hayti

And the experiment is now made with us, as experiment was made with us in the Jastram case, and in the case of Mr. Consular Agent Teel, in 1872. As I have already had the honor to say to you in my dispatches numbered 364 and 365, (the statements and views of which I cannot but still respectfully maintain, so far as they relate to the case in hand,) the whole idea at the bottom of this conduct of the government is now, and never has been any other than, to get rid of Boisrond Canal, for fear of his power and influence in the future.

* * * * *

The character and reputation of Boisrond Canal were and are such as to mark him out for special attention at their hands.

The first step taken against him was to order his arrest on the 1st of May last. Failing to lay hands upon him, he was outlawed by executive proclamation the following day. The third step was to demand that I should deliver him over to the government as a criminal.

The demand not being acceded to, the next step was to make an appeal to you. Because your considerate decision on the appeal did not concede absolutely the point aimed at, this government taxed its energies and cunning to obtain its end by other means, such as annoying me by the continued shouting of hundreds of armed men around my house the whole of every night, and such as causing reports to circulate that it had positive information that I was deserted by my Government in this matter; that my residence had no claim to immunity; that the soldiers were so excited beyond its control that it could not answer for the safety of myself and family. Finding the traditional difficulty of frightening or worrying out Americans, it has recently hit upon another expedient, that of going through with the form of a so-called trial *par contumace* of the refugees with me and with my colleagues, without, however, giving us any notice as to either the time or the place of the so-called trial. The proceedings were of course summary, before a military tribunal, composed of men who do not pretend to know anything of law, and not one of whom would have dared to even intimate an idea against the fixed purpose of the Executive to have the men on trial all condemned. By this means the authorities hope now to succeed with you. But I affirm, upon my official responsibility, that the so-called trial and its surroundings were a farce, and that the almost sole aim and end in view were to open anew the question with you. They hope now to communicate to you, in phrase and expression redolent of devotion to law, the result of this so-called trial. Before you they will appear as persons fully in accord with that spirit of civilization which bows its head before the mandate of the law, when in reality there is no law here in such cases except the will of the Executive, and when these men have nothing but rage in their hearts against Boisrond Canal, and his death in their eyes.

Of course, it ought not to be expected that our Government can deviate from any well-settled policy to suit cases like the one which now besets us; but I venture sincerely to hope and to ask, in view of all the peculiar circumstances surrounding this case, that you will concede to this government nothing whatever further than what is already conceded in your No. 227.

* * * * *

I am, &c., &c.,

EBENEZER D. BASSETT.

No. 322.

Mr. Bassett to Mr. Fish.

No. 384.]

LEGATION OF THE UNITED STATES,
Port au Prince, July 22, 1875. (Received September 2.)

SIR: In the course of my Nos. 364 of the 8th and 365 of the 19th of May last, I had the honor to invite your attention to the dispatches which had been exchanged between this legation and the Haytian government up to the latter date respecting the persons who had taken refuge under the legation-flag. In the hope of reaching a final and friendly termination of the matter, and of thus being able to forward to you the whole case under one cover and one comment, I have delayed sending to you the correspondence which I have since had with this government relative thereto. Disappointed thus far in that hope, I do not now feel justified in longer putting off the inviting of your attention to this correspondence. It is herewith inclosed.

The latest inclosure (D) to my No. 365, dated May 17, was my response to a demand from the Haytian minister for the delivering up of Boisrond Canal after he had notified me of his government's reference of the case to Washington. In it I pleaded as my reason for declining to accede to the demand the almost unquestioned exercise of the right of asylum by foreign representatives of every grade in this country since its independence. On the 22d of that month I received from the minister another note, (inclosure A,) calling my attention very seriously to the statement that it had been reported to the government that General Boisrond Canal, in coming to my house, had entered there with arms and ammunitions. The statement is made in the original with all that peculiar reserve and indirection for which the French language affords scope in the *oratio obliqua*. Three days later, Sunday intervening, I sent him an answer, (inclosure B,) assuring him that the report was not well founded, and telling him also that I would never tolerate such a proceeding as the one alluded to for one moment. I called about this time upon three of the ministers, and gave them, as I shortly afterward gave to the President in a friendly way, all the particulars attending the entrance into my house of General Canal and his two companions. I was, at the same time, unceasingly using every means within my power for a settlement of the case upon terms which could but be at once friendly and satisfactory to all concerned.

In that view I called not only myself upon some one of the ministers daily, and often upon the President, but I caused others who had influence with them to call for the same object. Indeed, I may truthfully say that no friendly exertion was left unmade, and no friendly argument unused, to reach an amicable adjustment of the difficulty. No similar series of friendly visits and arguments from persons of position and influence have been brought to bear upon the authorities of this government in any case since I have resided here. In a visit to the palace on the 7th ultimo, I found the President alone, and, as always, glad to see me. As I went over the whole matter with him, he seemed much interested in my statements. When at last I was saying to him that I did not then see how I could, under the unforeseen and unexpected circumstances, have acted differently than I had acted as to the refugees, and was reminding him of our proofs of friendship for him and his government, he interrupted me to say, "Yes, yes, my good friend; I understand your position in the case, (of Boisrond Canal,) and I respect it. But what can I do?"

* * * * *

On the 14th ultimo the minister of foreign affairs called upon me, and in handing me another dispatch, (inclosure C,) he made some apologetic remarks, saying, among other things, that he hoped the written communication which he had been instructed to pass to me would not interfere with any of the friendly unofficial measures on foot for an amicable disposition of the affair on hand. The dispatch, after speaking of the reference of the case to Washington, states that "the government, according to information from its representative at Washington, is led to reclaim from you (me) to-day, on stronger ground than formerly, the delivery of General Boisrond Canal and his associates, in order that they may be handed over to justice." I told the minister that it was in contemplation to cause a friendly unofficial visit to be made to the palace the following day in regard to the question, but that I feared the dispatch might interfere with this purpose. "O, no," he quickly responded; "don't give up that; there's still hope."

After a very careful reflection on the subject, I judged it wisest not to abandon, for the moment, the field of unofficial operation, especially as it seemed quite possible that success might crown my long-continued and patient efforts in that regard. Accordingly, on the 15th ultimo, I sent the minister an acknowledgment (inclosure D) of his dispatch, stating to him that "I and my colleagues of the diplomatic corps have (had) an important unofficial communication to make this (that) afternoon to His Excellency the President, which may, (might,) as we all confidently and sincerely hope, (hoped,) render unnecessary further official correspondence on the point in question."

That day was a fête day, the first anniversary of President Domingues' inauguration. The diplomatic and consular corps attended the ceremonies at the cathedral and at the palace in the forenoon, I acting as the dean of that body, and every one seeming at the end to be in good and generous spirits. In the afternoon, at four o'clock, the ministers of the United States and Great Britain, the chargé d'affaires of France, the consul and chargé d'affaires of Spain, and the experienced and honorable vice-consul of Great Britain all went to the palace together, to have a friendly and entirely unofficial talk with the President about the refugees under my flag, and jointly under the English and the Spanish flags.

By previous understanding, and at my request, Major Stuart, the British minister, was to state the object of our visit, and not a word was to be said by any of us outside of a strict and tender regard for every possible sensitiveness of this government in regard to the subject to be talked over. We found the President alone. He received us with his accustomed cordiality and dignity. When our mission was explained to him, he seemed to wish to argue the question with us. But we all kept strictly to our previous understanding. In the most friendly and delicate manner we urged upon him the desirability of adhering to the traditions of the country in allowing these three refugees to embark for foreign territory. We suggested that it might be done as an act of generosity conceded, if he wished it so to appear, at our friendly request, and befitting that happy day of the anniversary of his inauguration. His excellency thanked us for the friendly interest we were showing for him and his government, and finally promised to take our suggestion into serious consideration.

"I shall grant your request," said he, "if I can find the means of doing so."

The interview, at which I think no amicable argument in our favor was left unused, was a pleasant and happy one, and we all thought we

were on the way out of the sore and trying difficulty about the refugees. But on the 21st ultimo I received another dispatch, (inclosure E,) dated the 19th, from the minister, intimating to me in a rather occult manner, that, in consequence of possible contingencies, it might be better for me to remove my residence from the country to the city. I was so surprised at his dispatch that I sought a personal interview with the minister, and talked the subject over with him. He urged me to put no stress upon it, and said it was written in obedience to rumors floating about by persons whom he considered indiscreet, but who had influence in high official circles. But I told him that for me it was an official communication, and must receive in due time official attention. I assured him also that under existing circumstances, his government need not, meantime, expect that I should entertain the idea of quitting my residence to remove to the city.

I still plodded on in the hope that I might secure a friendly settlement of the difficulty about my refugees. But it seemed at last that the use of my good offices were being taken in some quarters as evidences of weakness on my part. I then spoke to several of the ministers of the official instructions which you had given me in the case of the persons in refuge under our flag. These of course they all must have known from Mr. Preston, as, you were kind enough to inform me, you stated them to him. But I used them in an inoffensive, persuasive sense, still hoping for a favorable response from the President to the friendly representations made by so many of his friends, and especially by the diplomatic corps. But at last, when, on the 25th ultimo, Minister Rameau, the head and front of the government, said, referring to the instruction of your No. 227, that no government could accept such terms, because it would thereby place itself in the position of confessing itself unable to carry out its own laws, it seemed to me that I had no choice but to take the official field and stand squarely on that ground. Accordingly, on the 26th ultimo, I addressed to the minister of foreign affairs three dispatches, the first (inclosure F) acknowledging, in what seemed to be fitting terms, his of the 19th ultimo; the second (inclosure G) alluding to the use of good offices which had been so long continued for the release of the refugees, and stating to him that I was authorized by my Government to enter into negotiations with him with the view to the friendly embarkation of the refugees under my flag, and that I placed myself at his disposition for that purpose; the third (inclosure H) making a representation relative to the surrounding of my premises in a needlessly offensive manner by armed men. To this last inclosure I invite your special attention. It falls short even of a full statement of the annoyance to which I and my family have been for so many weeks subjected by the presence of these armed men. I know, of course, that this surrounding of my premises is only a feature in the case of the refugees which is not yet disposed of. But what, it seems to me, affords ground for complaint, is the needlessly and, I am induced to think, designedly offensive manner in which it is done. On the 10th instant I received from the minister an acknowledgment, (inclosure I,) dated the 8th instant, of my three dispatches of the 26th ultimo. In this acknowledgment he goes over the oft-repeated story about Boisrond Canal, adding, however, the new feature of military insubordination to the catalogue of the alleged offenses of that general. No notice whatever is taken of my proposition as to a negotiation looking to the friendly embarkation of the refugees, though the minister afterward pretended that this omission was purely an oversight. What is said in response to my dispatch touching the surrounding of my premises, is regarded as pure

tropical diplomacy, intended, no doubt, to have weight at Washington. I say this, because he certainly could not have hoped to deceive us here on this point, and because it was observed by all my large household here, and by our friends in the vicinity, that as soon as it had been officially announced to the government that we were all really annoyed by the conduct of the armed men around my premises, the annoyances complained of were at least doubled, and have gone on increasing ever since. The two events have certainly stood to each other as antecedent and subsequent. I think it possible that they were antecedent and consequent. I sent to the minister a response (inclosure J) to his dispatch on the 12th instant. In it I express regret that he had passed over unnoticed my proposition for a negotiation as to the refugees, and tell him that I do not think the decision taken by my Government will be changed. I substantially re-affirm what is said in my note of the 26th ultimo, relative to the armed men about my residence, and speak, I hope not too emphatically, about the allegation constantly recurring in dispatches, in conversation, and finally in the official journals, that my residence in the country is only my *maison de plaisance*, the idea being that in my said residence I am not entitled to legation immunities. I also state to the minister that I consider my rights and immunities, which belong to my Government, and not to me personally, infringed upon, and that I shall now refer the subject to my Government. July 17th instant, Minister Excellent made response (inclosure K) to my note of the 12th. In it he declines, in the name of his government, to enter into negotiations upon the affairs of the refugees in the sense suggested by me before the decision of the "Federal Government should come to it from its minister at Washington," quoting, as if it were the only information received from Washington, your reply to Mr. Preston, on the occasion of his first visit to you on the subject, that you had not then received the necessary information, and for the first time complains that I had "kept secret during a month, indeed," the presence of the refugees at my house, a circumstance which he tells me with an air of positiveness as you may observe, though I know not by what authority, my Government "cannot approve." He gives again his assurances about the respect due to my official character, although the annoyances of which I complained were then and are still on the increase. The same day also he sent me a copy of "the judgment pronounced by the special military tribunal of this arrondissement against Boisron d Canal and his associates," by which General Canal, his brother, Calice Carrie, who is safely in refuge in the British consulate, and Fleuriot, who is in Kingston, Jamaica, are all condemned to death. Inasmuch as it was now clear to me that the correspondence would not tend to relieving us of the difficulty, this government having decided to await the result of its appeals to Washington, and as far as it can, ignore me in the matter, I sent the minister to-day a short note, (inclosure L,) simply acknowledging his two dispatches, and thanking him for them.

I am, &c.,

EBENEZER D. BASSETT.

[A.—Inclosure 1 in No. 384.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, May 20, 1875.

MR. MINISTER: I have had the honor to receive the dispatch which you addressed to me on the 17th instant, in response to mine of the 14th instant. That which you

have therein announced to me has had the perfect attention of the government. Permit me, Mr. Minister, before the American Government pronounces itself upon the affair of Boisrond Canal, to inform you that it has been reported to the government of Hayti that this general, in betaking himself to your residence, entered there (*y srait entré*) indeed with arms and ammunitions. The government does not know to what point these assertions may be founded. Nevertheless, reposing itself upon the assurances which you have given to it, it thinks that whatever there may be in them, you could never assuredly tolerate, in the circumstances, any act of a nature to lead to unfortunate and compromising results for the security of the country. The government calls very seriously your attention upon this point in view of eventualities which it is impossible for it to foresee. The government takes good note, Mr. Minister, of the friendly dispositions which you transmitted to us by your aforesaid note. It partakes of them very sincerely, and it is in view of maintaining them always that I have felt it my duty to address to you my present dispatch, in order to bring to your knowledge the point which is the object of it, persuaded that you will give it attention, (*y aviserez.*) Be pleased to accept, Mr. Minister, the new assurances of my very high consideration.

EXCELLENT.

Mr. E. D. BASSETT,

Minister Resident of the United States, Port au Prince.

[B.—Inclosure 2 in No. 384.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,

Port au Prince, May 25, 1875.

MR. MINISTER: I have the honor to state that on the afternoon of Saturday, the 22d instant, I received your dispatch of the 20th instant, in which you ask my attention to an allegation that a certain person or persons may have entered my official residence with arms and ammunition. I am glad to notice that you yourself do not place confidence in this allegation, and I take pleasure in confirming you in your statement that, for myself, I "would never tolerate in the circumstances any act of a nature to lead to unfortunate and unhappy results for the security of the country." As you well indicate, it is absurd to suppose that the official residence of the minister of a friendly foreign power is to be made an arsenal for the storing of arms and ammunition. I hardly need say to you, Mr. Minister, that no one would discountenance and deprecate such an act more than myself. And certainly you may be assured that I could never for one moment permit it.

Fully reciprocating all the friendly sentiments which you express to me in your note, I am, Mr. Minister, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,

Secretary of State for Foreign Affairs.

[C.—Inclosure 3 in No. 384.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,

Port au Prince, June 14, 1875.

MR. MINISTER: As I have had the honor to announce to you by my preceding dispatches, General Boisrond Canal, a refugee, at your country residence, (*maison de campagne*), in consequence of the events of the first of May, is, as well as his adherents, amenable to the laws of the country, against which he has rendered himself culpable. The manner in which you have regarded the demand that the government has addressed to you in regard to the delivering up of this general, and from which has resulted a lack of understanding (*entente*) between us, having induced, as I have written you, the presentation of the question to the direct appreciation of the American cabinet, the government, according to information from its representative at Washington, is led to reclaim from you to-day, on stronger ground (*plus de raison*) than formerly, the delivery of General Boisrond Canal, and his associates, in order that they may be

handed over to justice. The government is pleased to think that the agents of friendly powers, residing in the country, being protected by the laws which govern it, ought to give their concurrence that they may be executed for the maintenance of the public peace and in the interest of the good harmony so desirable in the relations of Hayti and these powers.

Be pleased to accept, Mr. Minister, the new assurances of my very high consideration.
EXCELLENT.

Mr. E. D. BASSETT,
Minister Resident of the United States, Port au Prince.

[D.—Inclosure 4 in No. 384.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,
Port au Prince, June 15, 1875.

Mr. MINISTER: I have the honor to acknowledge the receipt of your dispatch of yesterday's date, and to say, in reply, that, in relation to the subject of that dispatch, I, and all my colleagues of the diplomatic corps, have an important unofficial communication to make this afternoon to his excellency the President, which may, as we all confidently and sincerely hope, render unnecessary further official correspondence on the point in question.

I am, Mr. Minister, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

[E.—Inclosure 5 in No. 334.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, June 19, 1875.

Mr. MINISTER: I have had the honor, in different dispatches which I have addressed to you, to express to you the desire of this government to obtain from you the delivery of General Boisrond Canal, and his associates, in order that they may be handed over to justice. From information which has come to the government, according to which this general might have entered (*serait entré*) your country residence (*maison de campagne*) with arms and ammunitions, I did not fail, by my dispatch of the 22d of May last, to express to you the confidence of the government in your fidelity, and the firm hope which it conserves that, if these reports were founded, you would doubtlessly not tolerate any act of a nature to compromise the public security. You gave in this regard to the government formal assurances. Nevertheless, Mr. Minister, the government is to-day impressed (*imbu*) that these gentlemen conserve the criminal intention of making an attempt against the public peace by some means. It would not be able to answer for the consequences which would result from such conduct, which in its thought would be less likely to occur, if you should judge it necessary to find yourself rather in town, at the hotel of the American legation, than at your country-seat, where, in spite of all the desire of the government, it would not perhaps be possible to surround you with all necessary guarantee in case of eventualities, the *arrondissement* of Port au Prince being moreover in a state of siege.

The government would be happy, Mr. Minister, if you should be able to find the means of anticipating these grave difficulties, to ward them off from the country, in the interests of its relations with that which you represent, which are the objects of all the solicitude of the government.

Be pleased to accept, Mr. Minister, the new assurances of my very high consideration.

EXCELLENT.

Mr. E. D. BASSETT,
Minister Resident of the United States, Port au Prince.

[F.—Inclosure 6 in No. 384.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,

Port au Prince, June 26, 1875.

MR. MINISTER: I have had the honor to receive your dispatch of the 19th instant, and I must express my surprise at its general tenor. I need not enter into a recapitulation of its details of statement and somewhat occult intimation; but I have the honor to offer you a few observations on them as a whole.

And, first, permit me to say that in my opinion your government has already been sufficiently assured in my official dispatches that no menace, no unfriendly act of any kind, can possibly be made against it by any persons who may have taken refuge at the official residence of the American minister, as long as the said persons remain in refuge there. No intention of any such proceeding is entertained by any person within my knowledge. If I knew that it were entertained by any person whatsoever, it would receive nothing from me but my discountenance and disapproval. In saying this, I do but reiterate to you the position always adhered to by this legation in reference to refugees under its protection. Again, you intimate to me the necessity or desirability of removing my residence to the city, and remind me that the arrondissement of Port au Prince is under martial law. My present residence is not more without the limits of this arrondissement than the city itself. Both are equally within the same arrondissement. I know of no foreign war, no domestic strife, and no public disorder, now existing or likely soon to exist, against your government. Moreover, your government's own assurances and the assurances given from week to week, by government sanction in the columns of *Le Moniteur*, the official journal, are all to the effect that profound peace and tranquillity prevail everywhere within the limits of the republic, and that the government is strong everywhere within these limits. You will pardon me, therefore, for reminding you that an American minister cannot, in any country, be expected under such circumstances, or, indeed, under any circumstances, and especially in the light of statements such as are made in this dispatch, to place himself at the disposition of rumors, surmises, or vague intimations, for which he is in no way responsible; and, further, that if he be wrongfully disturbed in his rights and immunities, or unjustly dealt with in any way, such a proceeding must constitute an offense against his Government, for which the offending party must and will be held responsible.

I am, Mr. Minister, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

[G.—Inclosure 7 in No. 384.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,

Port au Prince, June 26, 1875.

MR. MINISTER: To your dispatch of the 14th instant, reiterating your government's demand for the delivery of Boisrond Canal and other refugees under my flag, I replied by my note of the 15th instant that an unofficial visit was to be made that day to His Excellency the President by the diplomatic corps resident near this government, and that we all confidently hoped that this visit would render further official correspondence on the subject unnecessary, the purpose of the visit being to ask of His Excellency, informally, and as an act of generosity becoming that happy day of the first anniversary of his inauguration, permission to embark the persons in refuge under my flag and jointly under the English and the Spanish flags. His Excellency was pleased to assure us that he would take our request into consideration. I have not yet, however, learned from His Excellency the President the conclusion which he has arrived at in the matter. But statements which have come to me from reliable sources have led me to believe that the all-important step taken by the diplomatic corps in an entirely informal, friendly manner, and purely of its own free will and accord, has failed to obtain the principal object in view—the release of Boisrond Canal. This is to be much regretted; and it is to be regretted, also, that your government has not seen its way clear to accept some one of the many other friendly measures suggested to it with the view of affording to it an honorable and friendly way of relieving itself and its friends from an embarrassment whose continuance cannot possibly produce good to any party. The acceptance of any one of these measures would bring only credit and good-will to itself. I regret, also, that the attitude which seems now to have been assumed by your government appears to have closed the avenue to further informal friendly sug-

gestion in the case, and that I must inform you in this official manner that I am authorized by my Government to enter into negotiations with you with a view to the friendly embarkation of the refugees under my flag, and that I place myself at your disposition for that purpose.

I am, Mr. Minister, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

[H.—Inclosure 8 in No. 384.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,
Port au Prince, June 26, 1875.

MR. MINISTER: In response to my note of the 3d ultimo, relative to the surrounding of my official residence by numerous armed men in the service of your government, you wrote me on the 6th ultimo, expressing regret that any lack of the respect due to my official character had been shown to me, or to members of my household, by persons in your government's employ, and assuring me that all the regard to which I and those connected with me are entitled would be strictly observed. But I have now to represent to you that my official residence is still, and for the past seven weeks and more has been, constantly surrounded by hundreds of armed men; that, in consequence, the free ingress and egress of persons with whom I have a right to maintain freedom of communication are impeded; that I have been, in other words, cut off from my rights of free and customary communication with my friends, citizens, my fellow-countrymen, other foreigners, and even my colleagues in this community; that members of my household are shut out from their rightful freedom; kept under constant apprehension, inquietude, and terror, from the presence, not to say the menaces, of armed men in the service of your government; that I and my household are, and for weeks have been, regularly prevented from repose and quiet at night by the continued shouting of these armed men under government orders; that my own personal freedom within my own official domicile is exercised only under constant apprehension of personal insecurity; and that, in short, Mr. Minister, my official privileges and immunities, which I must insist upon and maintain, are infringed upon and jeopardized in many ways by the unfriendly presence of hundreds of armed men, posted under the orders of your government in an unfriendly attitude on the very limit of the official residence of a foreign minister.

I have not disputed, and do not here dispute, the right of your government to exercise its own rightful measures of police within its own jurisdiction; only I venture to say that they ought to be exercised in such a way as not to become a marked trespass upon the rights and immunities of foreign ministers.

When you receive a foreign minister, especially under the treaty guarantees given to the Government of the United States, you give to that minister and to his government a full assurance of all the rights, immunities, privileges, and courtesies accorded by the law of nations to diplomatic representatives everywhere. Your surrounding of my official residence in the manner described has come to be a violation of this assurance, a menace, an infringement upon my rights, immunities, and privileges, since in consequence of it, as already stated, no one with whom I have a right to maintain personal or other relations, is safe from annoyance and danger in coming to or departing from my said residence, and since, also, I and those connected with me are steadily inquieted in our security, and exposed at least to serious accident at any moment therefrom: and the American minister is, in fact, almost a prisoner in his official domicile. This state of affairs, the first of like character that has ever been ventured upon in the history of this country, certainly cannot be allowed to continue forever, as you will readily admit.

I will not further enlarge upon the unpleasant subject. I have already sufficiently spoken of it to yourself and your colleagues in conversation with you and them. But I have now the honor to inform you that the matter, unless it be at once alleviated or abated, must be made the subject of unfavorable representation to the Government of the United States, and that your government will in any event be held responsible for any accident or other injurious circumstance which may grow or may already have grown out of the menace now kept up in so disagreeable a manner and for so long a time over the official residence of the American minister. If I have not made to you before this date the foregoing representation, it is not because I have not been aware of the trespass upon my immunities, but because I have steadily hoped that patience on my part and the use of my friendly good offices, which unfortunately seem to have been quite misunderstood, might save me from the necessity of it.

I am, Mr. Minister, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,
Secretary of State for Foreign Affairs.

[Inclosure 9 in No. 384.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,

Port au Prince, July 8, 1875.

Mr. MINISTER: I have had the honor to receive your three notes of the 26th of June last, calling to my attention the tenor of your preceding notes of the 3d of May and the 15th of June, and responding to my dispatch of the 19th ultimo. Permit me, as you have said, not to enter more into the recapitulation of the facts and circumstances which have been the object (*qui out motive*) of all this correspondence. The government, in insisting to obtain from you the delivery of General Boisrond Canal, refers in all respects to the precise explanations and to the arguments which it has transmitted to you through me relative to the criminal acts of voluntary homicide (*meurtres volontaires*) and other acts of which General Boisrond Canal has rendered himself culpable. The government confirms them to you again at this moment. In fact, it is impossible for it to admit with you that General Boisrond Canal should be considered as a political refugee—a general officer legally summoned to deliver himself up to the call of superior authority. He failed in all the duties that honor and military subordination commended to him, in order to give himself over voluntarily and without cause (*sans raison*) to criminal acts which all laws reprobate. In making to him this call, which issued only from patriotic motives, the government had had in view only the maintenance of order and principle in preventing every explosion of acts which are always regrettable and disastrous for society.

The duty of the government is well traced. In presence of threatening inquietudes (*sourdes inquiétudes*) produced by these recent events, it could not give up the right to take all the measures of general police which the situation demands and which the legal judgment of Boisrond Canal and his associates imposes upon it. The active and continued surveillance which is exercised upon the highway leading to your country residence (*habitation de plaisance*) is, as you have well recognized it, the necessary consequence of these measures of precaution and general security which are until now incumbent upon the government; nevertheless, as it has not ceased to give you the perfect assurance the government intends (*entend*) that the severe orders which it has given shall be punctually observed concerning the regard which is due and the facilities to be accorded to you and attached to your household in their free and perfect circulation. The government would regret infinitely if any disagreeableness should have resulted to you personally from this circumstance; and in this thought it has just caused to be reiterated the most formal orders in this regard to the chiefs of the military line. The responsibility for the grave circumstances which were unfolded the 1st of May must necessarily fall back upon those who provoked them. Also, the government intends (*entend*) that those who profited by them to give themselves over to criminal acts against persons and property shall be handed over to justice alone competent to pronounce upon their fate. This is why it still insists upon you for the delivery of those who find themselves under your protection, while praying you to have confidence in the good faith from which it has never departed, and which induces it to have recourse in this occurrence to the judicial way and forms. You will shortly learn, Mr. Minister, at all events, the result of the legal process commenced against Boisrond Canal and his accomplices, and then you will appreciate, without doubt, how well founded are the reclamations of the government.

Be pleased to accept, Mr. Minister, the new assurance of my very high consideration.

EXCELLENT.

Mr. E. D. BASSETT,

Minister Resident of the United States, &c., &c.

[J.—Inclosure 10 in No. 384.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,

Port au Prince, July 12, 1875.

Mr. MINISTER: I have had the honor to receive your dispatch of the 8th instant, which I have read with attention, and in which you favor me with a response to my three notes of the 26th ultimo collectively. I might have preferred a specific answer to each one separately. Nevertheless I thank you for your attention to them. You reiterate your demand for the delivery of the refugees under my flag when I have already had the honor to inform you that my Government has authorized me to enter into negotiations upon the subject only and solely with the view to the embarkation of those persons.

I had also the honor to state to you in one of my notes that I placed myself at your disposition and convenience for that purpose, and I regret that you have not chosen to respond to this point or to take any notice of it whatever. My Government took its friendly decision in the sense in which I have already spoken and written to you of it, after having received all the representations submitted to it relative to the case by your government through your minister at Washington. Is it probable that a great Government like the one which I represent here will change a decision once taken in such a case and under such circumstances? My view is that it will not change that decision. And yet am I to infer that you are now unwilling to abide by the friendly decision of my Government after you yourselves appealed to that Government and invoked its decision?

I thank you for your assurance that your government intends that the severe orders which you say to me it has given concerning the respect which is due to me and the facilities to be accorded and attached to my household in their free and entire circulation, shall be punctually observed. But I regret to inform you that all the grievances stated in one of my notes of the 26th ultimo still continue unabated, unchanged. I most respectfully beg leave, therefore, to represent to you that I am compelled to reiterate and maintain all that I affirm in my said note of the 26th ultimo relative to the surrounding of my official residence by armed men and the infringements made upon my rights and immunities thereby. And I repeat that I hold your government responsible not only for all these trespasses upon my official rights and immunities, never before questioned in any way whatsoever, and especially for all the unnecessary and needless annoyances to which I and my family are continually subjected by express orders of your government, but also for any and all other injurious circumstances which may yet grow or may have already grown out of the menace kept up in so persistent and offensive a manner over the official residence of the American minister. No other government within my recollection has ever before ventured upon or attempted such a proceeding. You speak as if with an object in your last dispatch, as you have spoken in previous ones, of my country-seat or summer residence, (*habitation de plaisance*,) when it ought to be perfectly well known to your government, as well as to everybody else in Port au Prince who chooses to think of it, that I have but one residence in this country, and never have had but one. That is therefore my *bona fide* official residence, and not a mere *habitation de plaisance*. I speak to you plainly upon this point, because it is not unknown to me that persons in authority under your government have, for purposes which I need not here mention, boldly and persistently sought to create and spread abroad another idea which has even found expression in the official journal, *Le Moniteur*, of last week. I repeat that I have but one residence, and never have had but one, in this country. That residence was occupied by my predecessor, and has been continuously occupied by me and my family for more than six years. The rights and immunities which appertain to me in my *bona fide* domicile ought to and must be observed. I am sorry to say that they are not now properly observed; that I am there subjected to unnecessary annoyances by day, and especially by night, under government orders. The rights which I possess and the immunities to which I am entitled here do not belong to me personally; they belong to my Government. And, as I had the honor to intimate to you in one of my notes of the 26th ultimo, I shall not now fail to refer the matter, including all the facts stated in this correspondence, to that Government.

I am, Mr. Minister, your obedient servant,

EBENEZER D. BASSETT.

Mr. EXCELLENT,
Secretary of State for Foreign Affairs.

[K.—Inclosure 11 in No. 384.—Translation.]

Mr. Excellent to Mr. Bassett.

BUREAU OF FOREIGN AFFAIRS,
Port au Prince, July 17, 1875.

Mr. MINISTER: I have had the honor to receive the note which you addressed to me the 12th instant, in response to my dispatch of the 8th of the said month. I hastened to submit this note to the attention of my government, and I am authorized to make to you the following response:

You say, Mr. Minister, relative to the government's legitimate demand for the delivery of Messieurs Boisrond Canal and his associates, that your Government, as you had already announced it to me, has authorized you to enter into negotiations upon this affair only and solely with the view of embarking these persons. To this effect you expose to me some considerations, and express reflections, which have had the

serious attention of the government. Permit me at first, Mr. Minister, to cause to be observed to you that the several notes of the 26th ultimo, all treating of the same subject, having been remitted to me at the same time, I did not think it necessary to respond to them separately.

The government does not believe itself authorized to permit the embarkation of persons who have rendered themselves guilty of voluntary homicide (*coupables de meurtres volontairement*) and who are amenable to the laws of the country (*lois intérieures.*) In this is a question of morality which it believes itself obliged to defend, and in which ought to participate all the nations interested in the defense of social order.

The affair having been brought before the cabinet at Washington, it has not come to the knowledge of the government of Hayti, through our minister in the United States, that any decision has been taken by the Federal Government, which, on the contrary, announced that it had not the necessary information for pronouncing itself upon the affair. Before the government of Hayti can enter upon negotiations upon this affair, in the sense which you ask of it, it is necessary that the decision of the Federal Government should come to it from its minister at Washington. The circumstances infinitely regrettable which have moreover occurred have occasioned the measures which the government has taken to prevent the escape of several refugees whose presence at your house was kept secret (*a été tué*) during a month indeed after that one had demanded of you to declare if they were with you. Nevertheless the Haytian government comprehends too well its duties toward the agents of friendly powers not to give to them every guarantee relative to the immunities and the respect to which they have the right. As to your official residence in the country, I refer you to all that which I have already had the honor to say to you, especially to the formal assurances contained in my dispatch of the 8th instant. The Government of the United States, which observes before all peoples the prescriptions of international law, holding to that which must be observed in its own regard, cannot approve, as the Haytian government has the profound conviction that an American diplomatic agent should guard, during thirty days and more, refugees, armed it is said and guilty of homicide (*coupables de meurtres,*) without giving notice of it to the government near which he is accredited. I will not end, Mr. Minister, without expressing to you again how much in the question which occupies us, the government believes founded the observations which it has addressed to you. Permit that I add a new assurance of the sincere desire which it nourishes to see the relations of Hayti with the United States continued with the same sympathy and the same cordiality which have always existed between them.

Be pleased to accept, Mr. Minister, the new assurance of my very high consideration.
EXCELLENT.

Monsieur E. D. BASSETT,

Minister Resident of the United States, Port au Prince.

[L.—Inclosure 12 in No. 384.]

Mr. Bassett to Mr. Excellent.

LEGATION OF THE UNITED STATES,

Port au Prince, July 22, 1875.

MR. MINISTER: I have the honor to acknowledge the receipt of your two dispatches of Saturday the 17th instant, and to express to you my regret that I have not before been able to make this acknowledgment of them, and thank you for the information which they contain.

I am, Mr. Minister, your obedient servant,

EBENEZER D. BASSETT.

Monsieur EXCELLENT,

Secretary of State for Foreign Affairs.

No. 323.

Mr. Bassett to Mr. Fish.

No. 387.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 9, 1875. (Received Aug. 24.)

SIR: I have had the honor to receive your dispatch No. 231, covering a copy of a note addressed to you by the Haytian minister plenipoten-

tiary, Mr. Preston, and calling my attention to two points in the said note relative (1) to my alleged refusal to furnish the government with a list of the refugees under my flag, and (2) to the allegation that some of those refugees entered my premises with arms and ammunition. I take pleasure in complying with your instruction to make an explanation of these two points.

And first, permit me to state that in my No. 364, of the 8th of May last, and its inclosures, will be found in detail the official demand (see inclosure A to my 364) made upon me in this regard, representing that the (Haytian) government "had knowledge" that "certain rebels had taken refuge in the house occupied by you (me) in the country," and that it desired to know the names of these persons. In inclosure D to my said No. 364 will be found also my response to that demand. In this response, I availed myself of the same ground which was taken under similar circumstances in the beginning of 1870, (see inclosure D to my No. 36 of January 15, 1870, and see also my dispatch marked "private No. 3" of January 16, 1870,) which was not quite altogether disapproved of by the Department at the time, in declining to furnish an official list of the persons supposed to be in refuge at my house. I had the honor also to enumerate to you in my said dispatch No. 364 other reasons for assuming this ground, observing, among other things, that in my opinion any weaker ground than the one assumed might, and probably would, under the then existing condition of affairs, have resulted in serious consequences.

The demand above referred to for a list of the refugees, made the very day when those persons entered my house, when the city was in a blaze of excitement about them, and when talk of violence against my premises was rife on the street, is the only one that has been made upon me for that list. I even expressed at the time a willingness to the minister to furnish him with any information, personally, that he might wish, and subsequently did give to him and to the president all the details about the refugees. You may notice, however, that Mr. Preston, in his note, speaks of an official list of the refugees. It may be noticed that the minister, in his note of May 3, (see inclosure A to my No. 364,) expressly states that his government had "knowledge" of the refugees at my house. It may be further remarked that all his dispatches to me on the subject since that date (see inclosures to my Nos. 364, 365, and 384) have been based on that idea. Moreover, promptly, on that same 3d of May, twelve hundred armed soldiers—that was the estimated number—were stationed in hostile array around my premises, for the avowed purpose of guarding against the escape of Boisrond Canal from my house. Do these facts and circumstances look as if the government did not know that Boisrond Canal was under my flag? In fine, I think I may affirm that the fact that Boisrond Canal and his brother were at my house has not at any time been, and is not now, a secret either to the government or to any other persons in this community.

Again, in my said dispatch No. 364, I gave what I intended as a full recital of all the circumstances attending the entrance of the refugees into into my house about 3 o'clock on the morning of the 3d of May last. I find, however, that I omitted this point about the arms, probably because I did not then think it of sufficient importance to bring to your attention in a dispatch already too long and full of details. The facts upon the point are, however, soon told. Boisrond Canal, the one person who has been and is still sought after above all others, pursued by government forces, came into my residence with a severe sprain in both ankles, which he must have received some hours before, and in

consequence quite unable to walk or to stand up even, except by the support of his two companions, and suffering intense pain. He had no arms whatever, and could not possibly have fired, as alleged, upon the soldiers who attacked him and his companions in their flight in the road, (*Chemin Laluc*,) nearly a mile opposite my residence. I noticed, however, that his two companions had each a musket in their hands. These I took away from them and locked up securely in my bed-room, telling the men that no weapon of any kind whatever could for one moment be allowed in their possession after entering under my roof. These facts—and there are no others upon this point that I know of—I have given in full orally, not only to the ministers but to the president himself. Inclosures A and B to my No. 384, of the 22d ultimo, will show the official correspondence had between me and the minister of foreign affairs upon the subject. I suppose I need not say that I have tried to act conscientiously for the honor and prestige of our flag here, in full view of all these trying circumstances and of my good acquaintance and knowledge of the Haytian people. * * * As it might possibly appear, from the manner in which those statements are made, that my present relations with the members of this government have been impaired by reason of the affair of the refugees, it may be proper for me to state that such is in no way the case. On the contrary, whenever I meet them, as I often do, they give me unmistakable proofs of the old cordiality. The president talks with me about his affairs almost as if I were a member of his household, and rarely fails to say to me in a hearty manner that it is always a new pleasure for him to see me. Even about this very refugee difficulty he has talked to me in the kindest manner, even almost without the conventional reserve, and has more than once expressed to me his regret over the occurrence, especially because it is “such an embarrassment for us both.”

* * *
I am, &c.,

EBENEZER D. BASSETT.

No. 324.

Mr. Bassett to Mr. Fish.

No. 388.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 9, 1875. (Received August 24.)

SIR: Referring to my Nos. 368 and 370, both of the 8th of June last, I have the honor to represent that I have been favored with the reading of a dispatch addressed by the Earl of Derby to my colleague, Major Stuart, the British minister, dated foreign office, June 23, 1875, and numbered 12, in which his lordship distinctly states that he approves of the asylum given by my colleague, Major Stuart, to General Joseph Lamothe, (for the second time,) and to Calice Carrié, in the British legation. His lordship instructs Major Stuart, however, to make arrangements by which the said refugees may quit Haytian territory. “You should, however,” are his lordship’s words to Major Stuart, “endeavor to arrange for their quitting Hayti.”

I am, &c.,

EBENEZER D. BASSETT.

No. 325.

Mr. Bassett to Mr. Fish.

No. 389.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 9, 1875. (Received August 24.)

SIR: In my No. 383, of the 16th ultimo, as well as in others of my dispatches which touch upon the question of the refugees under our legation flag, I have had the honor to convey to you an intimation, both of the general surprise created here by the conduct of this government in persistently and stubbornly refusing to give the traditional consent for the embarkation of these persons for neutral territory, and of my view that the severities which were inaugurated the 1st day of May last by the authorities here were inspired, not by any conspiracy against it, as alleged, but by a determination to eliminate from the political arena the possible elements of future insecurity to the present administration.

I refer to these two points now for the purpose of stating a few facts bearing upon them.

When it was known, on the 3d of May, that there were persons in refuge at my house, it was almost universally and confidently supposed here that my personal relations with the president and all his intimate advisers would enable me without difficulty to embark the men, whatever might be the feeling of the government against them.

* * * * *

But alas! all my personal exertions have not succeeded in removing the difficulty. It still exists.

Another ground for general surprise at the government's conduct in this regard is that it has turned squarely against all the traditions and precedents established in the thousands of similar cases that have occurred here since Haytian independence. In no single instance in all those thousands has there ever been any approach to the conduct that the government has observed and still is observing in this case of my refugees, Boisrond Canal and his brother, and in no single one of these instances has a refugee ever been given up.

What wonder is it, therefore, that the country stands in surprise, and amazement even, as it sees the government rejecting every possible friendly appeal, and contemptuously casting aside all the precedents of two generations—precedents established and consecrated, too, by itself?

It would seem as if the government had something more than an ordinary motive to push it up to such conduct. What that motive is, as I understand it, I have explained in my No. 383.

* * * * *

For illustration, let me state that, shortly after the occurrences of the 1st of May, a commission was appointed, of course by the government, to gather up and report proofs to show that there was to break forth that day a conspiracy, in which Generals Brice, Pierre, and Canal were leaders. Three months of investigation have developed absolutely nothing of such proofs. Indeed, no impartial or fair-minded person here believes that any such conspiracy existed as was charged.

Again, the refugee Calice Carrié, who was at the British consulate, and who was condemned to death with Boisrond Canal, quietly marched out of his place of refuge to a friend's house, one day last week, and found means to embark right at the wharf of regular embarkation, no one questioning him or stopping him. No word of surprise or regret at his departure comes from the government M. Fleuriot, who was also

condemned to death with Boisrond Canal, was allowed by the government itself to go quietly to Jamaica.

Moreover, there were seventeen other persons who were put upon trial charged with participation in the pretended conspiracy of the 1st of May. They were of course all condemned to death. This was the 29th ultimo. But their sentence of death was, on the 2d instant, removed in every instance. Of the seventeen, nine were pardoned entirely, two were exiled, three were consigned to prison for six years, and three for ten years.

Now, unless there be something special against Boisrond Canal, why is it that upon his case such unprecedented stress is laid? Of his alleged associates in the conspiracy, condemned to death equally with himself, some are exiled, some pardoned entirely, some allowed to embark, and some have their sentences commuted to imprisonment, while in reference to Boisrond Canal himself such unprecedented proceedings have not only already been taken, but will—I say it most respectfully—be continued in every possible form which promises success to the determination to get rid of him, just as long as the appeals of this government in the case are well entertained at Washington.

I do not see any disposition manifested by the government to remove the difficulty, which is daily becoming sorer and more trying.

* * * * *

I am, &c.,

EBENEZER D. BASSETT.

P. S.—A fair example of the feeling here in regard to the refugees may, perhaps, be given by quoting a remark made to me by the British minister. Some days ago that gentleman came to my office and said he had come to say to me that he had taken careful pains to find the sentiment existing here on the subject. He said: “I have talked it over extensively with a great many intelligent persons, foreigners and natives, and I find but one single view from everybody, and that is that the conduct of this government toward you about those refugees, under the circumstances, is most extraordinary.”

E. D. B.

No. 326.

Mr. Hunter to Mr. Bassett.

No. 236.]

DEPARTMENT OF STATE,
Washington, August 26, 1875.

SIR: Your dispatches to No. 389 have been received. They convey the unwelcome information that the question in regard to Boisrond Canal and the other refugees at your residence was still unadjusted. The hope was entertained that the conditions upon which, by the instruction No. 227 of the 4th of June last, you were authorized to terminate the asylum which had been granted to those persons, would have been complied with. Those conditions were that if the Haytian government should apply to you for them in order that they might be tried, you would be authorized to give them up, provided that government would engage that no punishment should result from the trial, but that if convicted they should leave the country. Or if those persons should themselves, or through you, offer to surrender to the authorities on the same conditions, you were to dismiss them. It does not appear from your dispatches that that government had made such an application,

or that it had been made by you. This leaves the subject in a very unsatisfactory state, and one by no means tending to strengthen those friendly relations between the two governments which it is desirable to maintain. The irritation of the Haytian government in regard to the matter is shown in the recent notes of Mr. Preston, a copy of which (and of the answers of the Department) is inclosed. It is obviously the purpose of that government, probably actuated by the impression that the right of asylum in the abstract is not favored by this Government, to endeavor to have you directed to surrender the refugees unconditionally. This purpose has not been and will not be accomplished. Still the impression here is strong that in receiving Mr. Boisrond Canal, especially under the circumstances, you allowed your partialities for that individual, as well as your general feelings of humanity, to overcome that discretion which, pursuant to the instruction to you, No. 32, of the 4th of February, 1870, you were expected to exercise in every case where an asylum might be granted to political refugees. The Department will not take into consideration the antecedents of Mr. Boisrond Canal. It is also bound to disregard the complaints of the existing Haytian administration against him, or the reasons therefor. If, however, as is understood to be the case, that person had actually been tried and sentenced for conspiracy before he sought refuge in your abode, he must have gone thither to escape punishment and arrest. It is also understood that he and his companions, while on their way thither, resisted arrest by force of arms. These circumstances certainly present a case in which it would be unreasonable to expect that government to acquiesce in the privilege of sanctuary granted by you to Boisrond Canal. Consequently that step on your part cannot be approved. Still there is no disposition to change the conditions upon which you have been authorized to surrender the refugees, except so far as this may be made necessary by the fact that Boisrond Canal had actually been tried and sentenced before he sought an asylum. It is presumed that if he were at large he would not be tried again, though the sentence already passed might be carried into effect. If therefore that government should allow him and the others to be embarked for a foreign port, under your supervision, the case might thereby be settled.

It is presumed that the embarkation might take place by the connivance of the government without any change of the sentence, or that, if necessary, the sentence might be repealed or so modified that the embarkation might be carried into effect without hazard or injury to the interests of the government. That a proper disposition to this end should be entertained is much to be desired.

I am, &c.,

W. HUNTER,
Acting Secretary.

No. 327.

Mr. Hunter to Mr. Bassett.

No. 237.]

DEPARTMENT OF STATE,
Washington, September 2, 1875.

SIR: Referring to previous correspondence on the subject, I inclose herewith for your information a translation of two notes,* under date

*See correspondence with the Haytian minister.

of the 26th ultimo, from Mr. Preston, relating to the asylum afforded by you to certain refugees at Port au Prince.

Your attention is invited to the statement contained in one of these notes concerning the course pursued by Boisrond Canal and brother at your residence, and you are requested to furnish this Department with an explanation in regard thereto at your early convenience.

I am, &c.,

W. HUNTER,
Acting Secretary.

No. 328.

Mr. Hunter to Mr. Bassett.

No. 238.]

DEPARTMENT OF STATE,
Washington, September 7, 1875.

SIR: Your dispatches Nos. 384 and 385, both dated the 22d of July last, were not received until the 2d instant. The Department cannot account for their delay, especially as others of a subsequent date, the receipt of which has been acknowledged, reached here some time since. The facts contained in No. 384 were necessary to a full understanding of the question relative to the refugees in your country residence. It has been determined to apply to the Navy Department to order a man-of-war to Port au Prince with a view to your protection from insult. That the embarrassing question adverted to may be satisfactorily adjusted before she arrives is much to be desired.

I am, &c.,

W. HUNTER,
Acting Secretary.

No. 329.

Mr. Hunter to Mr. Bassett.

No. 239.]

DEPARTMENT OF STATE,
Washington, September 10, 1875.

SIR: With the instruction No. 237, of the 2d instant, a copy of the note of Mr. Preston * to this Department of the 26th ultimo, which concludes with a proposition in regard to the refugees under your protection, was transmitted. A copy of the reply to that note is inclosed.* It contains a counter proposition upon the subject. The reply will without doubt be communicated by Mr. Preston to his government. If the proposition should be acceptable to the Haytian government, you are authorized and directed to see that it is complied with according to its terms.

I am, &c.,

W. HUNTER,
Acting Secretary.

* See correspondence with the Haytian minister.

No. 330.

Mr. Fish to Mr. Bassett.

No. 240.]

DEPARTMENT OF STATE,
Washington, September 21, 1875.

SIR: This Department is informed by that of the Navy that pursuant to our request for a man-of-war at Port au Prince the United States steamer Powhatan, Captain James E. Jouett, which is the bearer of this communication, will proceed thither. We have no further dispatches from you. It is hoped, however, that before the arrival of the Powhatan the question relative to the refugees will be satisfactorily settled. We are aware of no sufficient reason for the Haytian government to take offense at the visit of that vessel or to suppose that it has been occasioned by any hostile purpose or by any intention unduly to influence its decision upon that delicate subject.

I am, &c.,

HAMILTON FISH.

No. 331.

Mr. Bassett to Mr. Fish.

No. 392.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 21, 1875. (Received October 11.)

SIR: I have the honor to state that, on Friday morning the 10th instant, there entered into this harbor the two new war-steamers recently built at Philadelphia under the superintendence of the Haytian Admiral Léon Déjoie for this government, and called respectively the "St. Michel" and the "1804." The former is bark-rigged, has seven hundred tons of measurement, and is to carry six thirty-pound Parrot rifles and one eleven-inch Dahlgren pivot-gun, with officers and crew to the number of one hundred. The latter of the vessels is brig-rigged, has six hundred tons of measurement, and is to carry four thirty-pound Parrot rifles and one one-hundred Parrot pivot-rifle, with officers and men to the number of about one hundred also. Both these steamers left Philadelphia unarmed, and made the passage from that port to this in seven days. They are to take, or have already taken, their armaments from the Haytian war-steamer "Mont Organisé," formerly the "Florida," now lying in the harbor here disabled and worn out, and having on board, besides her own, the guns once carried by the "Pequot," afterward called "La Terreur," and by the "Salnave," formerly known as the "Maratanza." The officers and crews of both the "St. Michel" and the "1804" are exclusively Haytians, with the exception of the two chief engineers, of whom one is an American and the other a native of St. Thomas. These two ships constitute the whole naval force of this government.

I am, &c.,

EBENEZER D. BASSETT.

No. 332.

Mr. Bassett to Mr. Fish.

No. 393.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 21, 1875. (Received October 11.)

SIR: I have the honor to report that a hurricane accompanied with an unusual fall of rain visited this island on the 11th and 12th instant, and caused some considerable injury to persons and property along the southern peninsula of Hayti. It was particularly strong in the localities of Jeremie, Aux Cayes, and Jacmel. At the former place it drove the sea in upon the town, destroyed several small residences, wrecked three vessels there in port, one English and two Haytian, flooded the plains in the vicinity of Grand Rivière, and caused the loss of human life. The town of Aux Cayes was in like manner flooded, and the harbor was made so rough that injury was done to the vessels in port, and the staunch steamer "Andes" of the Atlas line from New York was obliged to remain there under the careful watchfulness of her captain and crew for four days. Jacmel, the richest agricultural section of Hayti, was particularly unfortunate. There, all vessels in port were disabled, except that one American schooner and one French bark rode out the storm, the wharf was uprooted, the prison was almost destroyed, the crop of plantains, a chief article of food among Haytian country-people, was to a great extent blown down, and the loss of human life was also occasioned. Happily the injury to the coffee crop was not severe. It is thought here that the storm must have been powerful in the track of its course on the sea, and we tremble when we think of news which may yet reach us of its devastations in these seas and on the ocean.

I am, &c.,

EBENEZER D. BASSETT.

No. 333.

Mr. Bassett to Mr. Fish.

No. 394.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 21, 1875. (Received October 11.)

SIR: I have the honor to represent that since the writing of my No. 389, of the 9th of August last, the situation relative to the refugees at my house here has remained essentially unchanged. The two refugees are still quietly occupying the suite of rooms which I gave them on the morning of the 3d of May last, and from which they have never since that date gone out. The hundreds of armed men, now for nearly five months stationed around my premises, still keep up their disagreeable, dangerous, and almost intolerable surveillance there. And the government here, emboldened * * * in regard to this matter by the delay it has already gained, which for it means at least a partial success, has thus far manifested no disposition to give relief from this deplorable condition of things. I respectfully invite your attention to my previous

dispatches, numbered 379, 383, and 389, relating to this subject, and to the recommendations therein made for relief.

* * * * *
I am, &c.,

EBENEZER D. BASSETT.

No. 334.

Mr. Fish to Mr. Bassett.

No. 242.]

DEPARTMENT OF STATE,
Washington, September 27, 1875.

SIR: I transmit herewith a translation of a note of this date from Mr. Preston* in answer to that of the Department of the 10th instant, and of a copy of my reply thereto of to-day, and also of a memorandum of the same date of an agreement between him and myself, all relating to the embarrassing question of the refugees. The adjustment which has now been reached will, it is hoped, definitively dispose of the subject. It is expected that you will do whatever may be necessary toward carrying that adjustment into full effect.

I am, &c.,

HAMILTON FISH.

No. 335.

Mr. Bassett to Mr. Fish.

[Telegram.]

HAYTI, October 5, 1875. (Received October 15.)

Refugees amicably embarked and soldiers withdrawn from around my premises yesterday.

BASSETT.

No. 336.

Mr. Bassett to Mr. Fish.

No. 397.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 12, 1875. (Received October 29.)

SIR: I have read with especial interest and attention the Department's dispatch numbered 236, of the 26th of August last, together with its four inclosures covering correspondence between the Department and Mr. Preston, the Haytian minister at Washington, and I have to thank you very sincerely for the virtual acceptance which that dispatch gives of the views advanced in my Nos. 383 and 389.

There are, however, one or two points in the said dispatch and inclosures which may, with your permission, befit a word of observation from me. And first of all, it may be due to myself to say that I really had no partiality for Boisrond Canal, and that no motive of personal

* For inclosures see correspondence with the Haytian minister.

preference or friendship for him in any way whatever, as far as I can judge, influenced my action in his case. This fact is in substance stated in that portion of my No. 364, of the 8th of May last, in which is detailed the entrance of Boisrond Canal and two of his followers into my house on the morning of the 3d of that month. It is due to General Canal to remark, however, that I now feel justified in all that is said of him in my Nos. 364 and 365, of the 8th and 19th of May, 1875. And in the next place, I may remark, what I suppose is now not unknown to you, that that person was not tried or sentenced previously to his seeking asylum under our flag.

I must not fail to express my grateful appreciation of the strong and efficient views conveyed to Mr. Preston in Mr. Cadwalader's note of August 6, 1875, to that gentleman. The annoyances and dangers to which I and my family were subjected by the soldiers stationed under government orders all around my premises here were most outrageous, nay, almost inconceivable. (See my No. 384, of July 22, 1875, and its inclosure H.) But it is a source of very great satisfaction to us, and, if it be not unbecoming in me to say so, highly creditable to our Government that, as early as the 6th of August last, the Department squarely informed the Haytian minister at Washington that it was then expected that those annoyances should at once be discontinued; that if this "expectation should be disappointed, it will (would) be regarded as an unfriendly proceeding on the part of the Haytian government," and that in consequence of the demonstrations adverted to (the surrounding of my premises by soldiers) the Secretary of the Navy would be requested to order a United States man-of-war to Port au Prince. Indeed I hardly know how adequately to express my gratification at this strong but, under the circumstances, exceedingly befitting position. This is, in my opinion, full of justice and full of credit to our flag. I do not wish to be understood as alluding to any other course that might or might not have been adopted, when I say that I think this ground taken in Mr. Cadwalader's note will do much to uphold and maintain the prestige and dignity of our flag on these seas and before the world.

I shall avail myself of an early opportunity to revert to statements advanced in the correspondence covered by Department's No. 236* relative to the right of asylum.

I am, &c.,

EBENEZER D. BASSETT.

No. 337.

Mr. Bassett to Mr. Fish.

No. 398.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 12, 1875. (Received October 29.)

SIR: Although Boisrond Canal and his brother, late refugees under our flag here, have been amicably embarked for neutral territory, as will be explained in my No. 399 of even date, yet it may be desirable to place upon record the explanation requested in Department's No. 237, relative to certain alleged proceedings of those persons while at my house, which are adverted to in Mr. Preston's note of August 26, 1875,

* *Ante.*

to Mr. Hunter, and I take pleasure in furnishing the requested explanation.

In his note, with a copy of which, under cover of No. 237, I am favored, Mr. Preston reports his government as affirming that Boisrond Canal and his brother were in the habit of showing themselves "at the windows and even under the balconies of the house of Mr. Bassett;" that "they even received their friends there, and have constant visits in the presence of the minister, so that the residence becomes as it were a rendezvous where the enemies of the government conspire openly."

At daylight, on the morning of the 3d of May last, I gave the refugees a suit of three rooms over my gallery. Neither Boisrond Canal nor his brother ever left these rooms during all the five months they were in refuge at my house, except on two or three occasions: once when during a terrible tropical rain late one evening, an American gentleman and myself being the only other persons in the house, which then had every door and window firmly closed, we invited him to come down into the saloon, where he spent a half hour in conversation on ordinary topics, and again when he and his brother came down stairs to proceed to their embarkation, just after midnight on the morning of the 4th of October instant. In addition to this, my family, with some emotions of dissatisfaction at the occurrence, informed me that once, when I was in town at my office, he came down stairs, as if by a strange fancy, and went to the other dwelling upon my premises, a few yards off, occupied by the family of the late Emperor Solouque, who have for years lived on terms of intimacy with my own family. There is a gallery fronting the suite of rooms alluded to, but the refugees were never, as far as I know, in the habit of going there except after nightfall. The windows and doors on three sides of the suite of rooms lately occupied by the refugees are shaded by trees. The other side opens upon the roof of the main building and upon the yard between the two dwellings. The entrance from the high road to the house is, I should judge, at least fifty yards from the balcony. After receiving your No. 237, I went on the upper balcony several times expressly to satisfy myself if any one could be seen from that position outside of the habitation. Perhaps some sharper eyes than I have could do so, but I could see no one on the street from any point on the upper balcony. Mr. Preston himself knows perfectly well the location and surroundings of my residence, and could not fail to recognize the substantial correctness of this statement. That a very few persons who called on me and my family at my house went up stairs to see the refugees is true. But no one was allowed to see them without the special permission of myself, my wife, or our housekeeper. With the exception of our family physician I do not remember a single instance in which any male citizen of the country not connected with my habitation, visited them. Indeed the absurdity of this part of the charge contained in Mr. Preston's note becomes apparent when the truth is told, that no citizen of the country, and for that matter seldom any one else, was allowed to enter my premises while the refugees were there, without the formal permission of the military authorities.

* * * *

My action in all these particulars was dictated by a sense of delicacy toward this government in its irritation and sensitiveness relative to the affair of Boisrond Canal and his brother, and not by any disposition to cede my right, as I understood it, to invite, if I should wish to do so, a gentleman like General Canal, who might find himself, under whatever circumstances, at my house, to a seat at my table, which he has never had, or to mingle with my household, which he has never done.

What Mr. Preston writes in his note is not half the story. This gov-

ernment has many times fallen into paroxysms of displeasure at reports from spies in its employ, some of them my own servants, as I was informed, as to the alleged conduct of the refugees. One report was that Boisrond Canal, in smoking his cigar, was in the habit of spitting upon the soldiers, whereas the truth is that he never smokes at all. Another was that he had the custom of talking with them to win them over to his control, whereas no soldier while on guard around my premises was ever within fifty or sixty yards of his apartments. Another was that he was accustomed to promenade at pleasure in my yard and swim in my bath, whereas he has never yet done either the one thing or the other.

But I will not continue these details. I may say, in one word, that there is, to the best of my knowledge and belief, no foundation whatever for the allegations in Mr. Preston's note. These allegations are only another illustration of the manner in which conduct on our part, dictated by a sense of delicacy or by a desire to pursue a generous and liberal line of policy toward this particular people, may at times be expected to be received by them.

I am, &c.,

EBENEZER D. BASSETT.

No. 338.

Mr. Bassett to Mr. Fish.

No. 399.]

LEGATION OF THE UNITED STATES,
Port au Prince, October 12, 1875. (Received October 29.)

SIR: On the morning of the 5th instant I had the honor to telegraph to you, via Colon, in these words, namely:

HAMILTON FISH,
State Department, Washington:

HAYTI, *October 5.*

Refugees amicably embarked and soldiers withdrawn from around my premises yesterday.

BASSETT.

Presuming that you duly received this welcome information, I desire now to outline to you proceedings which resulted in relief from the embarrassment growing out of the presence of two refugees under our flag here.

After having received your No. 238 of the 7th of September ultimo, I called, the afternoon of the 28th, upon the minister of foreign affairs, and informally conveyed to him the last two sentences of that dispatch in which it is stated that you had determined to apply to the Navy Department to order a man-of-war to Port au Prince with a view to protecting me from insult, and that you much desired that the embarrassing question of the refugees might be adjusted upon the arrival of that vessel. I then went on to talk to him, in an informal and friendly sense, of the great desirability of terminating the trying difficulty at once. The minister seemed cordially to accept my arguments and views. And I was afterward authentically informed that he dispatched a courier the same evening to His Excellency President Domingue, who was then at Miragoane, to convey to the latter an outline of my friendly arguments in favor of embarking the refugees without delay, and in consequence His Excellency thereafter immediately returned to the capital

without fulfilling his contemplated visits in the south. I learned that on his return the President had said that when I had lately called upon him, it seemed to him as if I had usually refrained from speaking to him freely about the case of the refugees. Accordingly when I went to the palace on the 2d instant, I said to him, alluding to the case:

"You may have remarked, President, that I have never, as a rule, introduced any matters of business in my conversation with you. A sense of delicate consideration for you personally and for your high official position had led me always to defer to your preference in this regard. I addressed myself in these affairs to your secretary of state." "I thank you," said he, "for your motives in this line of conduct; but really you and I so well understand each other that I can see no good reason why we should not talk over this affair of Boisrond Canal."

I then repeated my friendly arguments in favor of the immediate termination of the embarrassing case of the Messieurs Canal. He said, in reply, "Well, you are probably right. I will see what I can do. I will call together my cabinet at once."

Somewhat to my surprise, about 8 o'clock that evening the general in command of the forces around my premises, Seid Thélémaque, a most respectable and honorable man, sent for me to come to his headquarters. On arriving there I found the ministers of foreign affairs and of war in waiting for me, both in full dress. "Well, gentlemen," said I, "I am glad to see you; what is your pleasure?" The minister of war quickly responded, his colleague assenting:

We have come to announce to you formally that the government has decided to embark Boisrond Canal and his brother. Their embarkation now depends upon you.

I responded that the announcement gave me great pleasure, and that I should be glad to conform to the government's wishes as to the details of the embarkation. It was finally agreed that I should talk over this point with the minister of foreign affairs the following day, which was Sunday, between 11 and 2 o'clock. I found him alone that day at noon. He said the President was much pleased at my disposition to defer to the government's wishes as to the details of the embarkation, and that His Excellency wished to see me. We therefore went together to the palace, where I met the President and all his ministers. We talked the matter over freely, and finally agreed that the general of the place and of the police should come with a guard of four men each to my house at 4 o'clock the next morning to accompany me and the refugees to the wharf. The interview was pleasant and agreeable in every way, no allusion whatever being made to the unpleasant part, and on separating, His Excellency warmly shook my hand saying that our old friendship was, in his view, fully re-established. I bowed in response and retired. I did not forget, however, that I was the only witness present at the interview on my side of the affair, and I therefore, about sundown, wrote a note in French to the minister to draw from him a writing about the embarkation, saying that according to agreement I had made all my arrangements for the embarkation at 4 o'clock the next morning, and asking him if the government had made its own arrangements in that sense. His answer was entirely satisfactory, and we were upon the point of retiring for the night at my house, when General Thélémaque again sent for me. It was about ten o'clock. On reaching his headquarters, I found the generals of the place and of the police there with their guards ready to proceed to town with the refugees. There had been so much feeling here about these latter-named persons that I was slow to accept their proposals to embark them at any other hour than the one fixed upon with the President and his ministers. But General Thélémaque showed me the favorable orders which he had received on the subject, and I finally said that I would embark the refugees at once, provided that time

were given me to invite my colleague the French chargé d'affaires, who lives in my locality, to accompany me. This was agreed to, and a little after midnight the guards, on my invitation, entered my yard, the refugees, my secretary, the French chargé d'affaires, and myself, all mounted horses in waiting for us, and at the gate we were joined by the commanders of the line around my premises, so that we were altogether a sort of cavalcade of about twenty-two persons. In the stillness of the midnight we rode about three miles to the city, hardly a word being spoken or a person met on the route. Arrived at the wharf, we found a boat in readiness, and I went on board the American brigantine "Varnum H. Hill," with the refugees, who * * * * * embraced me, and then allowed us to retire, scarcely a word having been exchanged. During the night all the guards were withdrawn from my vicinity, and we had quiet at our house for the first time in exactly five months. The next morning I learned that several persons were intending to visit the Messieurs Canal on board the vessel, and I thereupon passed word to the master through the consignee, Oliver Cutts, to allow no one to communicate with them from the shore, and to move out of the harbor as soon as possible, which he accordingly did, the vessel being all ready for sea.

The city was full of exclamations of satisfaction at the intelligence of the safe departure of the refugees, and many prominent persons called at my office to express to me both their felicitations at the removal of the immediate cause of irritation, and their conviction that all parties must alike be satisfied and rejoiced over it. A note of congratulation from our consular agent at Jacmel says that it "is a satisfactory termination of this difficult matter. Many parties here approve of your firmness in this delicate affair."

So much feeling had been shown by the government about this case, that it was natural for it to seek some means to justify its action before the country. Accordingly in the official journal of the 9th instant is inserted a decree (inclosure A) signed by all the cabinet, and commuting the sentence of death against the Messieurs Canal to that of perpetual banishment.

I owe it to truth to say that in my opinion the embarrassment would never have been thus happily terminated if it had not been for the strong ground taken in the Department's notes to Mr. Preston, and for the announcement in those notes and in the American journals of the determination to send a national vessel to this port. * * * *

I am, &c.,

EBENEZER D. BASSETT.

[Inclosure A in No. 399.—Translation.]

Decree.

Michel Domingue, President of Hayti, considering the judgment of the special court (council) of Port au Prince, under date of the 6th of July last, which condemns to capital punishment the persons named Boisrond Canal and Canal, jr., called young Canal;

Considering article 4 of the law of the 22d of November, 1860, and making use of the right which article 125 of the constitution accords to him, decrees as follows:

ARTICLE 1. The sentence of death pronounced against the above-named Boisrond Canal and Canal, jr., called young Canal, is commuted to that of banishment for life.

ARTICLE 2. The secretary of state of police and the secretary of state for foreign relations are charged with the execution of the present decree, which shall be published and executed.

Done at the national palace of Port au Prince the 2d of October, 1875, 72d year of the independence.

(Signed)

DOMINGUE.

By the President :

(Signed)

The Secretary of State for Police,
C. HEWETELON.

(Signed)

The Secretary of State for Foreign Relations,
EXCELLENT.

(Signed)

The Secretary of State for War and Marine,
PROSPER FAURE.

(Signed)

The Secretary of State for Public Instruction and Worship,
MADION.

(Signed)

The Secretary of State for Justice,
BOCO.

No. 339.

Mr. Preston to Mr. Fish.

[Translation.]

LEGATION OF HAYTI,

Washington, June 25, 1875. (Received June 26.)

The undersigned, minister plenipotentiary of Hayti, referring to the recent conversations which he has had the honor to have with the honorable Secretary of State in relation to the asylum granted by Mr. Bassett, minister of the United States at Port au Prince, to M. Boisrond Canal and his accomplices, who are implicated in the political conspiracy of the 1st of May last, and who are charged with the commission of one or more murders while engaged in resisting armed force, desires to lay aside, for the present, the grave questions of international law raised by the exercise of the privilege of granting asylum, and to confine himself to recapitulating a few of the circumstances connected with the case which has recently presented itself in Hayti.

In the first place, it does not seem doubtful that Boisrond Canal and his accomplices have taken refuge, with arms and ammunition, at the house of the minister of the United States.

In the second place, it is within the knowledge of the undersigned that his government has addressed Mr. Bassett in vain, for the purpose of obtaining from him an official list of the persons to whom he has granted asylum.

The undersigned brings these facts once more to the notice of the honorable Secretary of State, knowing the spirit of justice in which they will be considered by him. He has, moreover, full confidence in the instructions which the Department of State has already given to Mr. Bassett in relation to this difficult matter, and the sense of which the honorable Secretary of State has been pleased to make known to the undersigned.

The undersigned cannot, however, refrain from expressing the fears which he entertains in consequence of the prolongation of the state of things created by the presence of Boisrond Canal and others at the legation of the United States at Port au Prince. He apprehends that the

impunity secured to them by the protection which they enjoy may contribute to maintain a state of agitation fatal to the interests of domestic peace, and that the very fact of this impunity may encourage other guilty attempts in future; he therefore considers it highly important that the matter should be settled with as little delay as possible.

Finally, the undersigned will remind the honorable Secretary of State of what he has already had the honor to say to him orally in regard to the request which Mr. Bassett stated that he had addressed to this Government, with a view to having vessels of the federal Navy sent into Haytian waters. As the undersigned has already received the assurance from the honorable Secretary of State that nothing of the kind will be done, he will not insist upon this point; he feels, in fact, well assured that the Honorable Hamilton Fish has already taken measures to put an end to the ill-founded fears to which Mr. Bassett's words may have given rise. The government of Hayti is firmly resolved to cause the inviolability of the rights of every legation to be respected by all; it knows, moreover, the regard which is due to the representative of the American Republic, to which it is bound by so many ties; it also, however, too well knows the spirit of justice which directs the counsels of the Federal Government to suppose for an instant that that Government would suffer one of its agents abroad to use the doubtful right of asylum to such an extent that, by the presence of naval forces intended to extend its exercise, it might become dangerous to the internal tranquillity of an allied and friendly country.

The undersigned, therefore, addresses the Secretary of State of the United States with full confidence, and begs him to dispel, by his reply, the inquietude which exists in Hayti.

The undersigned begs, &c.

STEPHEN PRESTON.

No. 340.

Mr. Fish to Mr. Preston.

DEPARTMENT OF STATE,
Washington, June 29, 1875.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of the 25th instant addressed to this Department by Mr. Preston, the minister plenipotentiary of Hayti. It refers to a recent conversation between him and the undersigned upon the subject of certain Haytians to whom Mr. Bassett, the United States minister at Port au Prince, had granted an asylum in his legation. As a result of that conference an instruction was at once addressed by this Department to Mr. Bassett, on grounds which were orally indicated by the undersigned to Mr. Preston. Too short a time, however, has since elapsed for Mr. Bassett to have carried those instructions into effect and to have reported to this Department upon the subject.

The undersigned acknowledges that it is desirable that the question, which has been raised by the course of Mr. Bassett, should be promptly and satisfactorily settled.

The undersigned is, however, not a little surprised at that part of Mr. Preston's note in which he represents that the undersigned had

given him assurances that no United States men-of-war would be ordered into Haytian waters. The undersigned is sure that he neither made any such promise nor used words which could fairly be construed as a pledge of the kind. Pursuant to general orders, naval vessels of the United States sometimes touch at ports where the lives and property of citizens may be supposed to be in peril. If any have recently visited the harbors of Hayti, the undersigned is not aware that they have been specially ordered thither.

This Department will furnish Mr. Bassett with a copy of Mr. Preston's note, some of the statements in which require explanations which have not yet been received.

The undersigned avails himself, &c.

HAMILTON FISH.

No. 341.

Mr. Cadwalader to Mr. Preston.

DEPARTMENT OF STATE,
Washington, August 6, 1875.

SIR: You are aware that Mr. Bassett, the minister resident of the United States at Port au Prince, has thought proper to receive into his official residence certain political refugees. This act on his part has not been approved by this Department, as it is not sanctioned by public law, though it is in conformity with precedents in that quarter. The fact, however, that Mr. Bassett should have thought proper to take the responsibility of harboring the persons referred to, contrary to the wishes not only of his own Government, but to those also of that to which he is accredited, is not conceived to forfeit his right, not only to protection from violence, but also to a continuance of those observances which are due to the diplomatic representative of a friendly nation. I regret to state, however, that, according to Mr. Bassett's reports to this Department, those observances have, in respect to him and to his legation, been signally disregarded. He states that his abode is encompassed by an armed force, and that during the night, especially, persons in his neighborhood keep shouting, apparently on purpose, to a degree which makes it impossible for him or his family to obtain necessary rest. It cannot be believed that these annoyances are instigated by the Haytian government, and perhaps it may not be aware that they are practiced. However this may be, it is expected that they will at once be discontinued. If this expectation should be disappointed, it will be regarded as an unfriendly proceeding on the part of the Haytian government. Indeed, the demonstrations adverted to and all the circumstances make it advisable, in the opinion of the President, that a United States man-of-war should visit Port au Prince. The Secretary of the Navy will consequently be requested to order one thither.

I avail, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 342.

Mr. Preston to Mr. Cadwalader.

[Translation.]

LEGATION OF HAYTI,
Washington, August 14, 1875. (Received August 14.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti near the Government of the United States, has the honor to acknowledge the receipt of the note addressed to him by the honorable Acting Secretary of State, under date of August 6, 1875.

He will take the liberty to say, in the first place, that the opinions of the Government of the United States in regard to the pretended right of asylum agree entirely with those of the government of Hayti.

He is happy to think that, during the negotiations to which the asylum granted to Boisrond Canal and others has given rise, the Department of State has made known its view of the question with so much plainness, that no doubt can exist with reference to the line of conduct which it will eventually adopt in the matter.

The undersigned also feels authorized to hope that a perfect understanding will be reached on this question of the right of asylum by the government which he represents and that of the United States. Thus he considers that the way is now prepared for the negotiation which his government has instructed him to open and pursue with that of the United States, with a view to bringing about the abolition of this practice, which has been too long maintained in Hayti by the legations there accredited.

The attention of the undersigned has been specially called to that portion of the note of the honorable Acting Secretary of State which relates to Mr. Bassett's official conduct in the affair of Boisrond Canal and others. He now knows to a certainty that, as the honorable Acting Secretary of State says, "this act on his part has not been approved by this Department." The undersigned will observe that these words, uttered in the name of the Government of the United States, give entire satisfaction to the government which he has the honor to represent; he sees in them a formal recognition of the sovereign rights of a state whose duty it is to maintain public peace within its jurisdiction, and to repress any disorder that may be raised by fomenters of anarchy.

Being thus placed in presence of the friendly declarations of the United States, the undersigned, who fully appreciates their importance, thinks that there remains little for him to say in relation to the incident created by the asylum found by Boisrond Canal and others at Mr. Bassett's residence. As the honorable Acting Secretary of State has informed him that he would give formal instructions to Mr. Bassett, ordering these refugees to be delivered up to justice, that they might be tried by the competent jurisdiction, on condition that the sovereign, and constitutional authority of Hayti, using its right of pardon, would under all circumstances spare the lives of these individuals and commute the sentence to that of expulsion from the territory, the undersigned, in virtue of the instructions which his government has given him, believes himself authorized to accept definitely this proposition, that proceeds from an allied and friendly power.

The undersigned does not deem it necessary to dwell here on the concluding part of the note of the honorable Acting Secretary of State, in which there is mention of the complaints that Mr. Bassett has drawn

up relative to the annoyances which he has experienced in consequence of the military precautions adopted by the government of Hayti around the residence of the American minister. If acts of this kind were really occasioned, the government of Hayti, as it has recently informed Mr. Bassett officially in writing, would be the first to regret them, and, if necessary, to punish the guilty. The solemn declarations, in the opinion of the undersigned, render useless to the Government of the United States any active measure; the government of Hayti is in fact firmly determined to maintain and cause to be respected by all the rights and privileges conferred by international law on the representatives of foreign nations. Finally, the undersigned will take the liberty of adding here that his government has always considered the representative of the great American Republic as the friend of his country and the upholder of the institutions which govern it.

The undersigned embraces, &c.,

STEPHEN PRESTON.

No. 343.

Mr. Cadwalader to Mr. Preston.

DEPARTMENT OF STATE,
Washington, August 17, 1875.

The undersigned, Acting Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Preston, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, of the 14th, in reply to that of the undersigned of the 6th instant.

It is noticed that Mr. Preston has thought proper, in that communication, to characterize the sanctuary which the minister of the United States in Hayti has thought proper to extend to certain citizens of that country as an act performed pursuant to a *pretended* right. As similar acts have often been exercised by the representatives of other powers, as well as by that of the United States, with the acquiescence of Hayti, the epithet referred to may be considered as superfluous.

The undersigned also regrets to notice a disposition on the part of Mr. Preston to draw an inference from the views which this Department has expressed on the general subject which will at least tend to restrict the course which the Department may think proper to adopt in regard to it. No such inference can be assented to.

It is quite probable, however, that, when the present case shall have been satisfactorily adjusted, this Department may be disposed to receive and consider any proposition which Hayti may make, looking to the abolition, by the several governments represented in that country, of the practice of granting an asylum to refugees in their respective legations. The United States cannot, for the present at least, separately, even by implication, engage to treat upon the subject.

The undersigned also regrets to observe that Mr. Preston mistakes the terms upon which, as he was informed, Mr. Bassett had been authorized to surrender the refugees in his residence.

The only condition upon which Mr. Bassett was authorized to make that surrender was, that the Haytian government should stipulate not to punish the refugees if, after trial, they should be convicted of any offense, but should, of its own accord, allow them to leave the country, and should furnish them with passports for that purpose. This condition did not imply any necessity for the exercise of the right of pardon,

to which Mr. Preston refers in his note. Indeed, the proposition, as stated by that gentleman, would, it is conceived, involve not only an abandonment of the question of asylum, but practically an assent to its violation.

The United States cannot consent to this. The proposition authorized through Mr. Bassett was based upon the principle of deferring to the dignity of Hayti by acknowledging her right to try the refugees, but also of maintaining the inviolability of the asylum so long as it should generally be tolerated.

If the proposition adverted to should, in its spirit and its terms, be accepted by Hayti, the unpleasant question to which it relates may be promptly and satisfactorily settled.

The undersigned avails himself, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 344.

MEMORANDUM.

August 18, 1875.

Mr. Preston called August 18, and said that the steamer is due in New York on the 20th, and no steamer sails until the 27th.

Mr. Preston then suggested that, as a means of the disposition of the question, without on the one side committing the United States to a practical abolition of the right of asylum, and the Haytian government to a recognition of the right, that the government of Hayti might be prepared to grant, from good-will, what they would not be willing to acknowledge as a right.

Mr. Cadwalader replies that if the only difficulty is to give the government of Hayti a chance to allow Mr. Canal to be embarked, that this is not difficult; and he would not be unwilling to suggest that, as this case is pending, and must, in some way, be disposed of, and that as it has arisen under a state of things which, at least, has been allowed to exist, that he should be embarked by Mr. Bassett, leaving the principle to be discussed, if Hayti desires, in a proper way, by all the powers, and in the face of no pending case. That this suggestion can be made here, separately, by an addition to the note sent him of the 17th, or by Mr. Bassett.

He replies he has not the actual power to so agree; that he will recommend it to his government strongly, and is fully of the belief it can be carried out, and the suggestion is made that the matter stand till the 20th, when the vessel is due, and then be finally passed on, as no mail goes until the 27th, which is agreed to.

No. 345.

Mr. Preston to Mr. Cadwalader.

[Translation.]

LEGATION OF HAYTI,
Washington, August 26, 1875. (Received August 26.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti to the Government of the United States, has

the honor to acknowledge the reception of the note of the 17th of August, 1875, which the Honorable Mr. Cadwalader, Secretary of State *ad interim*, addressed to him.

In the note of the 14th, to which the Honorable Mr. Cadwalader answered on the 17th, the undersigned had said that the opinion of the United States Government relative to the pretended right of asylum was in perfect accord with that of the government of Hayti.

It seems that these words, *the pretended right of asylum*, have been given, in the English translation of his note, quite a different meaning from that which the undersigned had given them. In fact, the Honorable Mr. Cadwalader is too thoroughly acquainted with the opinion expressed by the most distinguished authors who have written on the law of nations relative to this practice, to be astonished at the undersigned adding a qualificative to the words "right of asylum." When all the authors who have given utterance to opinions on this question declare that this usage is contrary to the law of nations, and when Phillimore, among others, calls it a monstrous and useless abuse, (see Phillimore, vol. 2, par. 204,) the undersigned thought himself entitled to speak of a pretended right. The undersigned does not think he ought to urge the observations which the Honorable Mr. Cadwalader has made relative to the attitude which the Government of the United States might take in the future concerning the question of the right of asylum. The undersigned, in fact, thinks he understands the liberal and benevolent intentions of the Department of State, and knows how to estimate the political considerations which have dictated the caution which the note betrays. The undersigned now comes to the proposition which the Honorable Mr. Cadwalader made to him, and which had already been submitted by Mr. Bassett to the Haytian government; which was, that Boisrond Canal and other refugees would be handed over to the Haytian government, provided "that it would pledge itself not to punish the refugees in case, after trial, they might be condemned, but that of its own accord it would allow them to leave the country, and, to that end, would give them passports." "This condition," added Mr. Cadwalader, "does not indicate the necessity of exercising the right of mercy, of which Mr. Preston speaks in his note." The undersigned regrets not being able to accept in the name of his government this proposition, which has already been rejected in Hayti. He does not think he can even recommend it to his government; in fact, it seems that up to this point there has arisen a confusion of ideas concerning this subject, which it is necessary to dissipate. Anterior to the *entree* of Boisrond Canal and others at Mr. Bassett's, a resolution of the President, rendered conformably to the constitution and laws of Hayti, had put Boisrond Canal and others beyond the pale of the law. Here is the text of that document:

Whereas the General Boisrond Canal has answered the legal requisition which has been made on him by the government, by recourse to arms, and in prolonging his criminal resistance he puts himself beyond the pale of the law;

Resolution. ARTICLE I.—General Boisrond Canal and all of his followers are put outside the pale of the law.

ARTICLE II.—The execution of the present resolution will depend on the diligence of the secretary of state for general police and the secretary of war.

Executed at the National Palace of Port au Prince, the 2d May, 1875.

(Signed)

By the President:

The secretary of state, president of the council.

DOMINGUE.

S. RAMEAU.

The undersigned will call attention to the fact that this decree, rendered the 2d, was published the same day in Hayti, and that it was not

until the morning of the 3d that Boisrond Canal and others entered armed into the official residence of Mr. Bassett. Besides, the undersigned will call attention to the fact that he is unable to comprehend how the Honorable Mr. Cadwalader explains that it is possible for the President to put individuals at liberty, or to put them in a position to leave the Haytian territory without exercising his pardoning power; in fact, there is in the constitution of Hayti but one article which can even allow the President to act in a circumstance similar to this which occupies us, namely, that which gives him the right to pardon. That article is thus expressed :

The President of Hayti has the right to pardon and that of commuting punishment; the exercise of this right will be regulated by a law. He can also exercise the privilege of granting amnesty only for political delinquencies. (Constitution of Hayti of 1874, article 125.)

The undersigned now passes to another class of ideas, the importance of which he hopes will impress the honorable Secretary of State *ad interim*. The undersigned will commence by bringing to his notice the text of a decree of May 1st, executed by the President of Hayti :

Michel Domingue, President of Hayti, considering that the maintenance of the internal peace of the state is one of the most important obligations prescribed by the constitution; considering that this peace, already guaranteed by the wisdom and moderation of the government, is seriously menaced, and that it is of vital importance to take the most pacific measures for preventing any bloodshed; whereas the government is convinced of the culpability of some individuals, who are further denounced either as authors of, or accomplices in, the conspiracy which has broken out;

By the advice of the council of secretaries of state, considering article 124 of the constitution, decrees as follows:

Article I. Are banished from the territory of the republic, the citizens * * * 4. Nathan Modé. * * * 11. Jean Alerte.

Article II. The secretaries of state for general police and foreign relations are charged with the execution of the present decree.

Done at the National Palace of Port au Prince, 1st May, 1875, the seventy-second year of the independence.

DOMINGUE.

By the President :

The Secretary of State, Vice-President of the Council,
S. RAMEAU.

The Secretary of State for General, Police, &c.,
C. HEURTELON.

The Secretary of State for Foreign Relations, &c.,
EXCELLENT.

The undersigned will call attention to the fact that among the individuals to whom this decree of banishment applies, several were refugees in the different legations, and that *Nathan Modé and Jean Alerte*, whose names happen to reappear above, had found an asylum in the official residence of Mr. Bassett. It was from that residence that they were taken to the beach and embarked, and the decree with respect to them was executed by agents of the Haytian authority with the consent and co-operation of Mr. Bassett. In thus lending his aid to the government of the country to which he is accredited, Mr. Bassett simply conformed to the conduct of his colleagues of the diplomatic corps. In presence of these facts, the undersigned confesses that it is difficult for him to comprehend how the same Mr. Bassett is since pleased to affirm in his official correspondence with the government of Hayti, that he had never, nor would ever render up an individual who had taken refuge or who would take refuge under the protection of his flag. The undersigned thinks he sees in these precedents a solution of the pending difficulty; if the Government of the United States would give instructions to Mr. Bassett that Boisrond Canal and others should be handed over to the competent Haytian authorities, the government of Hayti would pledge itself to commute

the resolution of 2d May last, which puts Boisrond Canal and others outside the pale of the law, to a decree of simple banishment; these individuals would be immediately embarked. Such is the proposition which the undersigned thinks he ought to suggest to the honorable Secretary of State *ad interim*; and in case he might think it a possible solution of the pending question, the undersigned would recommend it without delay to his government. The undersigned hopes also that, until he would be able to receive, either by mail or telegraph, the definite answer of his government, things would remain in actual *statu quo*. The undersigned flatters himself that the honorable Secretary of State *ad interim* will see in these propositions a new proof of the friendly spirit and conciliatory intentions which inspire the undersigned with regard to the great Government to which he has the honor of being accredited.

The undersigned takes advantage of this occasion to renew, &c.,

STEPHEN PRESTON.

No. 346.

Mr. Preston to Mr. Hunter.

[Translation.]

LEGATION OF HAYTI,

Washington, August 26, 1875. (Received August 26.)

The undersigned, envoy extraordinary and minister plenipotentiary from Hayti, has received instructions from his government, dated Port au Prince, the 16th August, 1875, in virtue of which he must make known to the Government of the United States certain facts which are in a fair way for accomplishment, and the perfect exactitude of which the Haytian government is prepared to establish. For several days Boisrond Canal, says the government of the undersigned, and his brother, show themselves at the windows and even under the balconies of the house of Mr. Bassett; they even receive their friends there, and have constant visits in the presence of the minister, so that that residence becomes, as it were, a rendezvous where the enemies of the government conspire openly. Such a state of things would be full of dangers, and would perhaps bring about a conflict, if it were not for the discretion of the Haytian government, which awaits all from the equity and justice of the United States government. At the same time the government of the undersigned affirms that the greatest respect is observed with reference to the minister of the United States, and that all the precautions will continue to be taken for maintaining the inviolability which his official position confers on him.

The undersigned seizes this occasion to renew, &c.,

STEPHEN PRESTON.

No. 347.

Mr. Hunter to Mr. Preston.

DEPARTMENT OF STATE,

Washington, September 10, 1875.

The undersigned, Acting Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Stephen Pres-

ton, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, of the 26th of August last, relative to the asylum granted by Mr. Bassett, minister resident of the United States at Port au Prince, to certain refugees.

The undersigned regrets that Mr. Preston does not deem himself warranted in recommending to his government the acceptance of the proposition on this subject contained in Mr. Cadwalader's note to him of the 17th ultimo. That proposition was believed to have been as just to the rights of all parties as the circumstances, fairly considered, would justify. Mr. Preston urges as a principal objection that, by a decree of the President of Hayti, bearing date the 2d of May last, Boisrond Canal, one of the chief personages under the protection of Mr. Bassett, was declared an outlaw, and that he did not seek refuge with Mr. Bassett until the next day. The decree adverted to may, as Mr. Preston says, have been issued pursuant to the constitution of Hayti. It can scarcely, however, be regarded as the result of any other than a military trial; and this in the absence of the accused, if, indeed, any trial, even of that character, took place.

Mr. Preston offers, at the close of his note, a counter-proposition as a substitute for that of Mr. Cadwalader. It is, that if Boisrond Canal and the other refugees be given up to the proper Haytian authorities, the government of Hayti will commute the penalty denounced by the decree of the 2d May last, to simple banishment; and that the refugees might then at once be embarked.

The undersigned is not sure that he fully understands this proposition of Mr. Preston. If, however, it be in substance that if the refugees be given up the Haytian government will engage that they shall be subjected to no further trial or sentence, but that the President of Hayti will grant them amnesty, and will allow them to embark without molestation, on a stipulation or understanding that they are not to return to Hayti without permission, and that, if they do so return, they may be held for trial and punishment, Mr. Bassett will at once be instructed to this effect. It is hoped, therefore, that this interpretation of Mr. Preston's offer may be found correct; that he will commend it to his government; that it will be accepted, and that this unpleasant question may thus be settled to the satisfaction of the parties without weakening the good understanding which it is believed to be their interest to maintain.

The undersigned avails, &c.,

W. HUNTER.

No. 348.

Mr. Preston to Mr. Fish.

[Translation.]

LEGATION OF HAYTI,

Washington, September 27, 1875. (Received September 27.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to acknowledge the receipt of the note addressed to him by the Honorable William Hunter, Acting Secretary of State, under date of the 17th instant, in reply to that which was addressed to him by the undersigned on the 12th ultimo, in relation to the question raised by the asylum granted to certain Haytians by the American legation at Port au Prince. The undersigned regretted, on

reading the reply of the Honorable William Hunter, that he had not been sufficiently explicit in his note of August 26 to prevent the confusion which seems to have arisen in the mind of the honorable Acting Secretary of State, as regards the decree of outlawry issued under date of May 2d, 1875, against Boisrond Canal and others, and the sentence subsequently pronounced by a court-martial against the refugees, who were duly amenable, as being officers of the army, to military justice. The undersigned, with a view to showing his desire for conciliation, wished to establish a distinction between the decree of May 2d, which was issued previously to the admission of Boisrond Canal into the house of Mr. Bassett, and a decision rendered subsequently. The government of Hayti might have consented to commute the decree of May 2d, and, as to the sentence *in contumaciam*, since, according to the laws of the country, a new trial, after the hearing of the parties (*procès contradictoire*) might have been held, the idea of the undersigned was to lay aside this proceeding and to terminate the matter by a simple executive measure. Such is still the proposition which he renews a second time to the honorable Secretary of State, in the name of his government, which authorizes him to do so. The undersigned thinks it proper for him to specify, as perspicuously as possible, the exact terms of the compromise which he proposes, with a view to the immediate and final settlement of the pending question. In case Mr. Bassett shall receive, by the next mail, the order to deliver up Boisrond Canal and others to the competent authorities, the government of Hayti will at once grant an amnesty to these refugees on condition that they agree to leave the country without delay, their embarkation to take place under the protection of Haytian authorities. It shall be further understood that in case Boisrond Canal and others shall hereafter attempt to return to the country without authority from the government of Hayti, they shall in no wise be protected by the present arrangement. The undersigned hopes that his proposition, thus expressed, which is in all respects in accord with the spirit and the terms of the Honorable Mr. Hunter's note, will be considered perfectly satisfactory by the honorable Secretary of State, and that he will see an evidence therein of the friendly sentiments which are entertained by the government of Hayti toward that of the United States. In thus bringing this matter to an end, the undersigned will be happy to think that he has been instrumental in causing the adoption of an arrangement calculated to furnish to the Government of the United States a further proof of the high esteem in which it is held by the government which he has the honor to represent.

The undersigned will remark, however, in conclusion, to the honorable Secretary of State, that one condition must be observed in the conclusion of this arrangement. The Honorable Hamilton Fish has done the undersigned the honor to tell him that although it had been subjected to delays which he did not understand, but which in reality were due only to the irregularity of the postal service of the Antilles, a United States war-vessel was to proceed to Port au Prince; since, however, the government of Hayti is in accord with that of the United States as regards the manner of settling the pending question, the undersigned trusts that the honorable Secretary of State will understand, as he himself does, that the presence of a vessel of war in Haytian waters at the very time when the whole difficulty has been settled by a diplomatic arrangement, might give rise to false interpretations and create political embarrassments which the government of the United States would certainly not wish to cause. When the question now pending shall have been settled, and when the refugees shall have

embarked, the government and people of Hayti will be happy to welcome any United States vessel that may enter the waters of the republic. The undersigned avails himself of this occasion to renew to the honorable Secretary of State the assurances of his highest consideration.

STEPHEN PRESTON.

No. 349.

Mr. Fish to Mr. Preston.

DEPARTMENT OF STATE,
Washington, September 27, 1875.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Preston, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, of this date. It relates to the political refugees who, for some time past, have been in the residence of Mr. Bassett, the minister resident of the United States at Port au Prince.

It is to be regretted that the embarrassing question which has arisen upon the subject should not have been sooner adjusted to the mutual satisfaction of the parties.

The undersigned is, however, under the impression that the terms of adjustment offered in Mr. Preston's note may be regarded as acceptable. Mr. Bassett will be instructed accordingly, and the Navy Department will be apprised that at present there is no further occasion for a man of war to visit Hayti.

The undersigned avails, &c.

HAMILTON FISH.

No. 350.

MEMORANDUM OF AGREEMENT.

[Signed September 27, 1875.]

It is mutually agreed between Hamilton Fish, Secretary of State, and Stephen Preston, envoy extraordinary and minister plenipotentiary of Hayti, that certain political refugees who, for some time past, have had an asylum in the residence of Mr. Bassett, the minister resident of the United States at Port au Prince, shall receive from the Haytian government a full amnesty for all offenses up to the time of their departure from the island; that Mr. Bassett shall give them up; that they shall be placed on board a vessel bound to some other country; that on their way to the vessel they shall be escorted by a Haytian military force, and that Mr. Bassett may also accompany them to the vessel. It is to be understood, however, that the said refugees, or any of them, shall not return to Hayti without the permission of the government of that republic.

HAMILTON FISH,
Secretary of State.

STEPHEN PRESTON,
Envoy Extraordinary and Minister Plenipotentiary d'Hayti.

ITALY.

No. 351.

Mr. Marsh to Mr. Fish.

No. 512.]

LEGATION OF THE UNITED STATES,
Rome, September 15, 1874. (Received October 14.)

SIR: Your instruction No. 433, dated August 4, authorizing me to accept the umpireship of the Italo-Swiss boundary arbitration, was received in due course of mail. An official request to that effect had been made, in the mean time, by the arbitrators, in accordance with the terms of the convention between the two countries, and I formally signified to them my acceptance of the duty.

I hoped so to arrange the time of meeting that the labor of the board could be completed before the expiration of my leave of absence, but the distance of the parties and the miscarriage of one or two communications prevented the accomplishment of this wish, and immediately after my return to Italy I proceeded to Milan, where the first conference was to be held. It was the opinion of both arbitrators that, previously to entering upon any proof or discussion, the arbitrators, umpire, and agents should personally inspect the territory in dispute. I concurred in this opinion, and we accordingly repaired to the frontier in question. The Alp, a mountain pasturing-ground of Cravairola, which is the debatable district, is an irregular triangle, containing about forty-five hundred acres, lying on the eastern slope of the mountain-chain which forms the water-shed between the Italian valley of the Toceia or Tosa, and the Swiss valley of the Maggia, in the canton Ticino. The Tosa and the Maggia both empty into Lago Maggiore, the former near Pallanza, the latter near Locarno. The height of the pastures of Cravairola above the sea is from forty-five hundred to nine thousand feet, and they are accessible by rugged mule-paths from the town of Crodo, in the Val Tosa, and from that of Campo, in the Val Maggia, the lowest passage from Crodo being over a ridge nearly 7,000 feet above that village. The surface of the Alp is everywhere steeply inclined to the east, and much of it is bare rock; but it contains valuable pastures and a certain extent of evergreen forest. There are no dwellings upon the Alp except a few rude huts, occupied by the herdsmen and dairymen from the 24th of June to the 8th, and sometimes 15th of September, the severity of the climate rendering the district uninhabitable during the rest of the year. From the Swiss village of Campo to the lower limit of the Alp may be reached by a path, barely practicable, in three or four hours. The products of pastoral industry can be transported over the crest of the mountain by men, and, to some extent, by mules; but the timber from the forest can be carried to market only by floating it down the torrent Rovano, which rises in the Alp, and thence by the river Maggia to the lake. The communes of Crodo and Pontemaglio, in the Val Antigario—a local designation for a certain extent of the Val Tosa, called, also, Val d'Ossola—have long been in possession of the Alp, which they rent to their own citizens, on certain conditions, chiefly established by custom; and their title to the soil is admitted by Switzerland. But the commune of Campo claims

municipal, and the Swiss Republic, federal jurisdiction over the Alp, as appurtenant to Campo, and as geographically belonging to the Val Maggia, which Switzerland acquired in 1513, by conquest, confirmed by a treaty, negotiated in 1516, between the Republic and Francis I, King of France, then in possession of all the territory of the duchy of Milan.

To Italy, the district in dispute is of very little political or military importance, and the Italian government interests itself in the question rather for the sake of protecting the proprietary rights of its citizens than for any other motive. The Swiss government alleges that the recognition of its sovereignty over the Alp is important to the republic for police purposes, and especially for the purpose of extending her system of hydraulic and forestal administration over the territory, which is alleged to be almost indispensable to the protection of her soil on the lower course of the Rovano.

We traversed the Alp, inspected it, as far as possible in very bad weather, and returned to Milan by way of Val Maggia and Lago Maggiore, without having been forty-eight hours out of the kingdom of Italy. It was then agreed that the two arbitrators should examine the voluminous testimony, and the arguments in support of it, and notify me in case they were unable to agree. I left Milan immediately, and reached Florence on Saturday last, intending to proceed to Rome early in the present week, but I received a telegram yesterday informing me that no agreement between the arbitrators was possible, and requesting my presence again at Milan. I have ascertained that there is nothing requiring my presence at Rome—which is now almost deserted by all official persons—and I shall return to Milan to-morrow.

I have, &c.,

GEORGE P. MARSH.

No. 352.

Mr. Marsh to Mr. Fish.

No. 513.]

LEGATION OF THE UNITED STATES,
Rome, September 25, 1874. (Received October 24.)

SIR: Referring to my last dispatch, No. 512, dated September 15, 1874, I have the honor to report the further proceedings of the Italo-Swiss boundary arbitration.

I returned to Milan on the 16th of September, and immediately entered upon the duties of umpire under the convention agreed upon by the governments of the two countries interested.

The proofs and arguments of the agents of the parties, and the arguments of the disagreeing arbitrators, were laid before me in writing, and I devoted eight days to their examination and the preparation of a decision, which was pronounced, in Italian, in the course of Wednesday the 23d, and I returned to Florence the same evening. I shall go to Rome in a day or two, but as the minister of foreign affairs will not return to that city until after the middle of October, and as there is almost a complete suspension of business at the capital, I shall not remain constantly there until about that date. The royal family and court are not expected to return to Rome many days before the session of Parliament, which, it is understood, will be convoked on the 23d of November.

The indisposition of one of the arbitrators, and pressing engagements

on the part of the other, as well as of the agents of the respective governments, imposed upon me the necessity of limiting myself in the examination of the points before me to such as I conceived to have a substantial importance, and though I carefully read the whole discussion more than once, and consulted the principal documents referred to, I found it possible to confine my own argument to one or two questions which I conceived to embrace the real matter at issue. But, after all, my opinion covers sixteen closely-written large folio pages, and I could not even procure it to be copied, still less could I translate it, during the session of the board. When a copy is furnished me, I will transmit a translation to the Department. In the mean time, I submit the following statement of the facts, and of the principles by which I was guided in arriving at a decision.

As was observed in my No. 51, the title of the Italian communes of Crodo and Pontemaglio to the soil of the Alp of Cravairola was admitted by Switzerland, but in illustrating the nature of their title, it is proper to remark that those communes produced conveyances of undivided fractions of the territory, dated at various periods from A. D. 1367 to A. D. 1497, and that these conveyances were not from the commune of Campo or any of its citizens, but from inhabitants of the Val Antigario. How the grantors acquired title did not appear, and it was noticeable that in some of the conveyances the land was described as of the commune of Crodo in Val Antigario, and often as lying in Val Maggia. This evidence was accompanied with proof of the exercise of civil jurisdiction over the Alp by the authorities of Val Antigario, in one or two instances.

It is highly probable, judging from the general usage of the population of the Alps, that the people of Campo, which is said to have been occupied and inhabited for at least nine centuries, first partially cleared the forests of the Alp, and improved its territory; but of this there was no proof whatever, nor did it appear that the commune of Campo, or its people, had ever laid claim to the soil or sovereignty at any time before the middle of the sixteenth century, or thereabouts, if indeed even then. Switzerland conquered the Val d'Ossola and the Val Maggia in 1513, but the Val d'Ossola was given up in 1515. In 1516, by a treaty between Francis I, of France, (as Duke of Milan,) and Switzerland, the Val Maggia was recognized as belonging to the latter power.

It was contended by Switzerland that upon general principles of political geography, the water-shed is, in the absence of clear proof to the contrary, to be taken as the limit between conterminous states in mountainous countries, and further, that the designation of the valley of a considerable river includes the basins of all its tributaries, and, therefore, that as the Alp of Cravairola is a basin which discharges all its precipitations through the Rovano into the river Maggia, it must be held to be embraced within the territory of Val Maggia, secured to Switzerland by the treaty of 1516.

Considerations of political and economical convenience were appealed to with great force by Switzerland, and it was contended that certain proceedings before a Swiss magistrate, in 1554, involving a question of the eastern boundary of the Alp, were a recognition of the jurisdiction of Switzerland, by the commune of Crodo, which bound Italy. Numerous acts of attempted jurisdiction over the *locus in quo* by Swiss local authorities, after the year 1641, were alleged by Switzerland, which, however, were met by proof of similar acts of Italian officials about the same period, but there was no evidence whatever that Switzerland ever made any claim of sovereignty over the Alp before 1554, or indeed, ac-

ording to my interpretation of the evidence, before 1641. The conflict of jurisdictions from 1641 to the present day did not appear to me to have resulted in anything like the establishment of either, and I held that the rights of the parties must be determined by the status of the question in 1641.

I have no copies of any of the documents, or of the arguments of the parties, or, as I have said, even of my own decision; I must, therefore, for the present, limit myself to a very summary statement of my opinion and of the reasons for it.

As to the question of expediency, I was clearly of opinion that the ultimate best interests of both parties would be most effectually promoted by assigning the territory in dispute to Switzerland; but I could not construe the convention as contemplating that course on the ground of convenience alone, and as no provision was made for the transfer of the soil and compensation to the proprietors, I thought the extension of the sovereignty, institutions, laws, and administration of Switzerland over the Alp, while its proprietors and occupants remained citizens of a foreign country, would occasion continual jealousies and dissensions, and, therefore, prove prejudicial, rather than beneficial, to the peace, harmony, and good will of the two countries.

As to the water-shed, I held that, as a principle of demarkation of political jurisdiction, it had not been generally recognized in Europe, and, least of all, in the boundaries between the two parties in the present case, which present numerous deviations from it.

As to the geographical rule of embracing, by the designation of a principal valley, the basins of all the lateral affluents, I was of opinion that, in the construction of treaties, the interpretation was subject to control by the contemporaneous understanding of the parties, as evidenced by possession, claim, or non-claim, and other circumstances. I considered that the possession of the *locus in quo*, time out of mind, by Italian communes and their grantors, accompanied with claim of jurisdiction on their part, and absolute non-claim by Campo, so far as proof existed, was, at least, *prima-facie* evidence that the exclusive possession of the soil by Italian municipal and quasi-political corporations was regarded as carrying the sovereignty with it, especially at a period when few lords and rulers could show any other title than possession to the lands they held; and that this evidence was applicable also to Switzerland, which, for nearly forty years certainly, and, as I thought, for a century and a quarter after she acquired the Val Maggia, never laid claim to jurisdiction over the Alp of Cravairola, and, therefore, probably never held it to be included within her limits.

I next considered the proceedings respecting the eastern boundary of the Alp of Cravairola—1534—which were adduced by Switzerland as evidence of the recognition of the jurisdiction of a Swiss magistrate over the Alp by the authorities of Crodo. From the vague record of these proceedings it appeared that *quædam æfferentia, lis et questio juridica* had arisen, *causa et occasione confinium alpis Cravairola ipsum de Crodo, et domini ipsorum nominum de Campo cumque fuerit*, etc., etc., *et quod litigando in jure coram Magnific. D. Christophorum Quantoni de Friburgo, et Honor. Com. Vallis Madia*, etc., but the nature of the action, the names of the parties, and the precise points at issue were not set forth. It was contended by Switzerland that an appearance by Crodo before the Swiss magistrates named in the record was an admission of the jurisdiction of the magistrates over the *locus in quo*. There was also an ingenious argument as to the force of the word *dominium* used in the body of the record, and in the attesta-

tion of the notary who drew up and certified it. I was of opinion that the technical appearance of Crodo as a party was not sufficiently made out by the record; for the appearance, such as it was, might have been expressly for the purpose of excepting to this jurisdiction; and this suggestion was strengthened by the fact that there was no adjudication of the question, the communes having agreed upon a commission of citizens of Crodo itself to determine and mark the boundary, which was done accordingly. There was, however, as I shall show presently, a conclusive reason for giving quite a different construction and value to the proceedings in question from those ascribed to them by the agents of Switzerland. As to the word *dominium*, I held that Switzerland had mistaken both the grammatical category and the meaning of the word, and, of course, that it had not the force claimed for it. But the real point of the case lay, as I thought, in the subsequent action of the two governments in relation to these proceedings for fixing the boundary. In 1555, and of course the next year after the establishment of the boundary-marks, the royal government at Milan addressed a communication to the commissary or podesta of Domo-D'Ossola, reciting that the ambassadors of Switzerland had complained that citizens of that province had violently entered into the Val Maggia and removed to a more easterly line the bounds which had formerly stood as limits "between one and the other *jurisdiction*," and that the ambassadors had demanded that the boundary-stones should be replaced in their original positions. In the course of the years 1555 and 1556 followed five or six other official documents, demanding or ordering the re-establishment of those limits; and it was noticeable that in not one of these documents, except the record of 1554, is any mention made of the Alp of Cravairola; but, on the contrary, the controversy is always spoken of as "*inter Domodossolanos subditos nostros et homines Vallis Madix subditos Helvetiorum, de finibus*," or as "*controversia finium inter commune Crodi et commune de Campo, finis inter ipsa communia, and termini inter ipsa communia*." The bounds were replaced; and nothing more is heard of the controversy; nor do the Swiss authorities appear to have advanced any claim of jurisdiction over the Alp until A. D. 1641. The *termini* referred to in those communications were certainly those set by the commissioners in 1554, and as, in all the official documents emanating from the governments of Milan and the local authorities of the province of Val d'Ossola, these *termini* are treated as the boundaries, not of an outlying pasture occupied by Crodo on Swiss territory, but as of the respective "jurisdictions," and of the "communes," it was my opinion that the two supreme governments of Milan and Switzerland considered the boundary-stones of 1554 as marking the limits of the territorial sovereignty of their respective states. The acquiescence of both parties, in actual practice, in this demarkation for a period of more than four-score years, I thought strongly confirmed this view of the case.

In 1641, the Swiss governor of Val Maggia advanced a claim of jurisdiction over the Alp in a very formal manner, and this was repeated in the year following, but always resisted by the Italian government of Domo d'Ossola. At length, in 1650, a congress was held at the Borromean Islands for the determination of the question. But no solution was arrived at, except an agreement that the people of Crodo should have the right of floating the timber cut by them down the Rovano into the Val Maggia and the lake, and that the people of Campo might occupy a part of the Alp as a pasturage, after it had been abandoned by the people of Crodo in the autumn, and it was expressly stated that this was granted "as a favor to the Swiss commissioners at the con-

gress." The provisions of the agreement were to remain in force until the question of jurisdiction should be finally decided, which, it is needless to say, has never been done.

The subsequent history of the question is made up of a succession of private trespasses and official attempts at the exercise of local jurisdiction by both parties, but I do not find anything in them to affect the rights of either of the respective governments, and these rights, in my apprehension, remain what they were three hundred years ago.

The *Comprosius Arbitral*, as it is styled in the convention, is drawn up in French, and it states the question to be decided in these terms:

"La liene frontière [entre les deux pays] doit elle, comme l'estime la suisse meire le faite de la claime principale [des montagnes] en passant par la corona di grosso Pizzo dei Croselli, Pizzo Piodo, Pizzo del Forno, et Pizzo del Monastero; en bien doit-elle, comme l'estime l'Italia quilterastero la chaîne principale au sommet désigné Sonnenhorn, A2788m., pour descendre vers le ruisseau de la vallé li Campo, et, en suivant l'arête secondaire nommé Creta Tremolina (ou Mosso del Lodano, 2356m., sur la Easte Suisse) rejoindre la claime principale au Pizzo del Lago Selato?"

My decision, omitting the formal part, was simply an affirmation of the second proposition in the above paragraph in the words of the convention.

I greatly regret that I could not, in drawing up my opinion, and cannot now, give the argument a fuller development, but I hope I have said enough to justify the conclusions at which I have arrived.

In order to save possible embarrassment, I informed Senator Guicciardi, president of the board, that I could accept from the respective governments no compensation, gift, or other material acknowledgment, and begged that none might be offered* by way of recognition of the duty I had performed.

I have, &c.,

GEORGE P. MARSH.

No. 353.

Mr. Marsh to Mr. Fish.

No. 515.]

LEGATION OF THE UNITED STATES,
Rome, September 27, 1874. (Received Oct. 14.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 440,* dated September 2, 1874, and of the accompanying inclosures relating to co-operative action between the minister of the United States and those of the western powers in Japan, and to participation by American citizens in the expedition to Formosa, and in other foreign wars, and have perused the correspondence between the Department of State and American ministers abroad on those subjects.

I do not think that Italy is disposed to encourage separate action, on the part of her minister in Japan, on any matter in which the Christian powers have common interest. The force of the motive which led to such action by the minister of Italy in that country, on a former occasion, is much diminished by the success of the methods of Pasteur and others in combatting the disease of the silk-worm in Italy. The importation of the seed, as it is called, of this insect into Italy, was consider-

* Identical with instruction No. 703 to the legation in Germany; Foreign Relations, 1874, page 460.

ably reduced last season, and some Italian silk-growers believe that the persevering employment of these methods will entirely extirpate this malady in Europe, and restore the silk-industry to its former prosperity.

I have, &c.,

GEORGE P. MARSH.

No. 354.

Mr. Marsh to Mr. Fish.

No. 522.]

LEGATION OF THE UNITED STATES,
Rome, October 12, 1874. (Received Nov. 4.)

SIR: Referring to the personal instructions to the diplomatic agents of the United States, under date of the 15th of August, 1874, section 48, I beg leave to submit some observations respecting the laws of Italy on the subject of the marriage of foreigners in that country, and respecting the practice of citizens of the United States marrying in Italy since the passage of the act of Congress of June 22, 1860, the 31st section of which makes certain provisions in regard to the marriage of American citizens abroad.

The requirements of the Italian Codice Civile, in regard to marriages between Italian citizens, can seldom be complied with by citizens of the United States, or other foreigners in Italy, and I remember no instance in which any attempt has been made to conform to them by foreigners, except where one of the parties was an Italian citizen.

In order not to burden this long dispatch with unnecessary manuscript matter, I simply refer to the Codice Civile, which is, no doubt, in the library of the State Department, title V, chap. I, section second, ¶ 55, 57, 60, 62, 63, 64, 65; chap. II, ¶ 70, 74, 79, 80, 81; chap. III, entire; chap. V, ¶ 102, 103.

Paragraphs 102 and 103 are, I believe, the only provisions of the Italian code which relate especially to the marriage of foreigners in Italy, except that by ¶ 9, of title I, it is declared that "a foreign woman marrying an Italian citizen, acquires citizenship and retains it even as a widow."

It will be observed that ¶ 102 refers merely to the capacity of the parties to contract matrimony, and not to the mode of celebration; and that ¶ 103 evidently contemplates the performance of marriage before the civil authorities of Italy, in conformity with the general provisions of the code; but it is proper to observe here, that, though I have never taken the formal opinion of counsel on the subject, in writing, I have been more than once assured by eminent Italian lawyers that any marriage between foreigners in Italy, which would be valid by the laws of their own country, would be recognized as such by the tribunals of Italy.

I think it proper to draw the attention of the Department to the provision in ¶ 103 respecting the "declaration of the competent authority" in regard to the absence of impediments to the marriage. What would be regarded as "the competent authority" does not appear from the code. I was once called upon to make such a declaration, in a case where I happened to have personal knowledge of the history of the party. I gave the declaration, but at the same time I informed the party and the civil officer who asked it that I could not vouch for the authority of the legation to issue such a certificate as an official act. It has

very lately, for the first time, come to my knowledge that consuls of the United States in Italy, if not elsewhere, sometimes give, under their official seals, certificates of this sort which are accepted by the civil authorities as a sufficient compliance with the provision in question.

When the parties to marriages in Italy are both citizens of the United States—a case of by no means frequent occurrence—they are generally married by some American clergyman who happens to be officiating in a church or congregation in Italy. The consul is requested to attend the ceremony, and his presence in his official capacity, duly certified by him, has been supposed to be a sufficient legal sanction to the marriage. I do not know that it is a point of any importance, but it may not be amiss to say that, so far as I know, no American church or congregation in Italy, except that of the Rev. Mr. Nevin, at Rome, has any corporate or other legally recognizable existence, according to the laws of this country.

Marriages of American citizens with foreigners in Italy are almost uniformly between American women and Italians, and sometimes French and German men, and I remember but two cases of marriage between male citizens of the United States and foreign women in Italy during my residence in this kingdom.

In the case of marriages of mixed nationality, I have always been careful to warn the parties, when I have had opportunity to do so, that possibly a marriage which would be recognized as legal by the courts of one country, in cases affecting the rights and liabilities of the party citizen of that country, would not be deemed valid by the tribunals of the other country; and I have never failed to add that I could venture no opinion on questions of this sort, and to advise the parties to take legal counsel on the subject. I have also thought it my duty to inform American women, about to contract marriage with Italian citizens, that, by Italian law, the act of marriage deprives such women of their American nationality, and invests them with that of the husband, and hence that they should inform themselves how far their rights of inheriting, holding, and conveying or transmitting real estate in the United States might be affected by their marriage abroad.

With regard to marriages between citizens of the United States in foreign countries, I have always supposed the statute of June 22, 1860, to be an enabling act, and that its purpose was to invest the consul "before" whom such a marriage is celebrated with higher functions than those of a witness as a mere certifying officer. I have construed the statute as designed to facilitate marriages between American citizens abroad, by clothing an officer of the United States with power, if not technically to solemnize them by pronouncing a form of espousal, still to give them a valid sanction by his official presence; and the law seems to me nugatory on any other supposition. So far as the proof of the fact of marriage is concerned, the testimony of any other witness would be as good as that of the consul, and I do not know any principle upon which Congress can be supposed to have intended to give special value to the certificate of a consul to a purely private and unofficial act of third persons, in which, as seems to be supposed by the instructions, he figures in no other character than that of a simple spectator. In the case of marriages before magistrates or clergymen, authorized by law to perform the ceremony, at least in the United States, the certificate is issued, not by a bystander, official or private, but by the functionary whom the law empowers to give a legally binding sanction to the act. The certificate prescribed by the consular regulations (p. 324, Form No. 80) seems to assume that the consul is a witness and nothing more, for it

requires him to certify, not an act in which he participates, but the celebration by some other person, whom he adjudicates to be "authorized by the laws of _____ to perform such ceremony." Whether the blank is to be filled with the name of the country where the marriage is solemnized, or with that of the American State of which the parties are citizens, does not in the least appear. And though the consul is treated as having no functions with regard to the marriage itself, he is empowered to pronounce, afterward, a legal decision on the question, what lay or ecclesiastical officer is authorized by foreign or by State law [as the case may be] to celebrate marriage in a foreign country. Now, on these points the statute is absolutely silent. It says nothing whatever in regard to the form of solemnization, or to the character of the functionary by whom it is to be performed, nor does it require or authorize the consular officer to certify anything beyond the simple fact of the marriage; still less does it empower him to adjudicate on what may be, and in fact, according to some opinions, at this moment is, in Italy, a difficult question of law.

In Section XLVIII of the new instructions, the Department expresses doubts whether marriage can be legally celebrated at all between citizens of the United States in a foreign country, unless it be solemnized in conformity with the laws of such country. It does not appear whether the Department questions the power of any government to legislate respecting marriage between its citizens within a foreign territorial jurisdiction; whether it questions the power of the Federal Government, as a government of limited attributions, to legislate on the subject of marriage at all, except as respects the citizens of the District of Columbia; or whether, as a matter of legal construction of the statute, it questions the intention of Congress to provide a mode of celebrating marriages between American citizens abroad.

With regard to the first point, it may be observed that such doubts are not entertained by the governments of Europe. The British statute (George IV, chap. 91) declares marriages between British subjects solemnized abroad by clergymen of the Church of England to be valid; the statute 12 and 13, Victoria, chap. 68, provides that British consuls in foreign countries may "solemnize or allow to be solemnized" such marriages at their consulates; and I am informed that in 1853 Lord Clarendon decided that marriages between British subjects, under those acts, could be celebrated, in foreign countries, nowhere but at British consulates, and that the actual presence of the consul was necessary to the validity of the marriage. Marriages between British subjects, however, continue to be solemnized occasionally at the legations, under the principal of extraterritoriality. The British statutes prescribe no observance of any of the requirements of the local law of the place of marriage, and in fact such observance would be impossible when the ceremony is solemnized either at the legation or at a consulate. The number of British citizens domiciled in this country is vastly greater than of American, and marriages between them are frequent. In practice, they content themselves with complying with the provisions of their own statute, and observe no formality whatever ordained by the laws of Italy.

France and Germany have analogous laws, and though I am unable to quote them specifically, I am informed that they require no conformity to any provision of the Italian code in case of the marriage of their citizens in Italy.

As to the jurisdiction of Congress over the subject, it would be a singular anomaly if the Federal Government, the only government in the Union legally recognized by foreign states and officially known to them,

cannot provide a mode of legalizing all contracts between its citizens while temporarily without the limits of its territorial jurisdiction. Nor does this appear to be the view generally entertained by the Federal Government in regard to its own powers. Not to speak of the authority conferred on consuls in this respect by Congress, § XLIII of the personal instructions of August 15, 1874, empowers secretaries of legation to administer oaths, take depositions, and to perform any notarial act which a notary public is authorized by law to do or to perform, and such acts he is required to attest under the special seal of his secretaryship. No act of Congress is referred to in this paragraph, and if any exists on this subject it has escaped me; but, in either case, it is not easy to see how the Government of the United States can by law or departmental regulation authorize secretaries of legation or consuls to perform in foreign countries acts necessary to give legal force to contracts as solemn and as weighty in the eye of the law as the celebration of a marriage, unless, it has the power to make regulations on the latter subject also. The performance of notarial acts is a duty everywhere discharged by local officers, but the power of the United States to confer upon its diplomatic and consular officers notarial authority, in respect to acts of American citizens in foreign countries, does not appear to be doubted. Unless, then, marriage is a contract more completely *sui generis* than it is now considered to be in countries where English jurisprudence is the basis of legislation, I am unable to perceive why the Federal Government has not as large powers respecting it as respecting any other contracts between its citizens abroad not relating to real estate.

It appears to me that there is room for serious doubt whether the laws of the several States of the Union have any legal force in relation to the marriage of their citizens when out of the jurisdiction of those States, and, consequently, whether Congress is not the only body which can legislate on the subject. I do not forget that acknowledgments of deeds of lands in the States, executed abroad, taken and certified by consuls, are generally considered as owing their validity not to the position of the consul as a Federal officer, but to the laws of the State, which authorize him to receive and certify such acknowledgments. But in this case the land, the subject-matter, remains always within the territorial jurisdiction of the State, while in the case of a marriage or other personal contract entered into in a foreign country, by persons not at the time amenable to the laws of the State or within reach of process from its tribunals, it is not clear that the laws of the State have any greater applicability than to offenses committed by such persons on foreign soil.

Whatever doubts may be entertained as to the power of Congress to legislate on this subject at all, except in regard to citizens of the District of Columbia, I cannot find in the language of the statute of June 22, 1860, any room for question as to the intention of the national legislature. The construction which I find myself obliged to give to the law is, that it regards the form and minister of the ceremonial part of the celebration as altogether indifferent, as mere matters of taste and feeling with the parties, and makes the legal and effectual solemnization to consist exclusively in the mutual assent of the parties, solemnly pronounced by them in the presence of the consul in his official capacity, as a special functionary *ad hoc*, precisely as in the case of a marriage before a justice of the peace or other civil magistrate in many of the United States. The consul appears to me to be acting in this case as a notary acts in receiving and certifying an acknowledgment of a deed of law; while the construction given to the statute by form No. 80, treats him as merely a witness to the act, though attesting it by a separate instru-

ment instead of subscribing the contract in that capacity. If it were the purpose of Congress to make valid a marriage which, perhaps, without its provisions would not be so, I do not know what stronger language it could have used than that actually employed in the statute in question; and, unless it is interpreted as conferring upon the consul the same authority as that which British legislation in the like case and in like terms confers on British consuls, and which the laws of the several American States confer on magistrates and clergymen, I do not perceive that it serves any purpose whatever. For if the presence of the consul does not give validity to the act of the parties in taking each other as man and wife, *per verba de presenti*, without the recitation of a matrimonial formula, not alluded to in the statute by a clergyman or magistrate, then his presence has no legal effect at all, inasmuch as it can hardly be contended that a consular opinion on the legal powers of a foreign magistrate, certified in pursuance of a simple administrative regulation of a Department, but neither required nor authorized by the statute, can make legal an act which would be void without such certificate, or that the judgment of a consul would be any evidence at all in case of a doubt as to the authority of the officiating magistrate.

At the same time the consideration of possible questions of conflicting jurisdiction has led me to advise the parties, in the few cases of marriage between American citizens in Italy, where I have been consulted, to conform as far as possible to the laws of the State to which they belong, but always to secure the presence of a consular officer at the ceremony.

In conclusion, I beg pardon for the freedom with which I have discussed this important question. I have gone into it at length, not with the purpose of asking a reconsideration of any of the questions which my official superiors have decided, or even a reply to the arguments which have had weight with myself, but simply as an explanation of the grounds on which I have thought that a marriage in Italy between citizens of the United States, competent to contract matrimony, celebrated by any ceremony whatever, or without any ceremony, but the formally expressed assent of the parties before or in the presence of a consular officer of the United States, is "valid to all intents and purposes."

At all events, I shall hereafter strictly conform to the instructions whenever I have occasion to give any advice on the subject.

I have, &c.,

GEORGE P. MARSH.

No. 355.

Mr. Marsh to Mr. Fish.

No. 525.]

LEGATION OF THE UNITED STATES,
Rome, November 25, 1874. (Received December 19.)

SIR: The new parliament of this kingdom, the deputies to which were chosen at the elections November 8, 15, assembled at Rome, pursuant to royal decree, on the 23d of the present month, and was opened by His Majesty in person with the reading of a speech, a copy and translation of which are hereto annexed.

The canvass and election were conducted with more than ordinary spirit, and the polls were attended by a larger proportion of the legal voters than is usual.

About one hundred and thirty of the deputies, or one-fourth of the chamber, are new to parliamentary life, and though the returns showed a considerable nominal administration majority, the election of the min-

isterial candidate for the presidency of the chamber of deputies was not thought altogether secure. But the question has been settled to day, by the choice of Mr. Bianchéri, the president of the late chamber and a supporter of the ministry, by a majority of sixty-four votes. Many deputies who, it is said, would have voted with the opposition were absent, but the probability is that the present ministry will be sustained by the chamber.

The most noticeable feature of the election is the increase of the opposition element in the southern provinces, which is thought an unfavorable circumstance, as indicating an aggravation of local jealousies between the Neapolitan and Piedmontese sections of the kingdom.

The election of Garibaldi is an individual, not a party triumph, and is an evidence of his great personal popularity, not an indorsement of his political opinions. Garibaldi is indeed republican in sentiment, but he is not a type or exponent of any political organization or creed, nor in Parliament, would he be likely to regulate his action by any consideration of party expediency. He was urged to attend the opening of the session with the view, it was thought by some, of making him the center, if not the leader of a parliamentary opposition, but he did not appear at Rome, and will not probably be a frequent attendant at the sessions of the chamber.

The questions raised by Mr. Minghetti's address to his constituents, and touched upon in His Majesty's speech, are, so far as now appear, the only ones of much moment which will be presented during the session. The opposition party is not united upon any definite programme, and I do not think that the general ministerial policy is unacceptable to the nation upon any other ground than its avowal of the necessity of continuing the taxes already so burdensome.

I have, &c.,

GEORGE P. MARSH.

[Inclosure in No. 535.—Translation.]

Speech of His Majesty King Victor Emmanuel at the opening of the Italian Parliament, November 23, 1874.

SENATORS, DEPUTIES :

My first thought on finding myself in the midst of the representatives of the nation is to offer words of gratitude to the Italian people for their cordial demonstrations of affection on the occasion of the 25th anniversary of my reign.

Those demonstrations were all the more acceptable to my heart because they were spontaneous and universal.

Equal to the affection of which the country has given me proof will be, I trust, the zeal of the new legislature in the accomplishment of the work for the re-organization of the state.

The civil code has been unified; the penal code should also be. It has been the subject of mature study in the senate, and it will be again brought to your attention. I hope that from your discussions a code will be perfected worthy of science and of the Italian name.

The reform of commercial rights, required by the country and promised by the government, will be initiated by a bill on commercial associations. The interference of the government will be less, and the responsibility of the administrators will be thus rendered more efficacious.

The government will submit to you certain measures for the re-establishment of public security in those provinces where it has been seriously disturbed. In accepting these measures you will follow the example set by the most enlightened nations and by those legislatures most jealous of preserving public liberty, which falls into contempt unless it guarantees the security of persons and of property.

The new military organization has given good results, and I am proud to remark the progress of the army to which I am attached by the deepest affection and by the most cherished associations of my life. This work must be carried to the end, and provision must be made for the defense of the state.

The navy, upon which so much of our future depends, will be, also, the subject of our deliberations.

My government will present to you bills for the reformation of certain taxes, with the object of a more equitable distribution and of rendering them more simple and productive.

This will be the commencement of a gradual reform of our tributary and administrative system, which, created in moments of difficulty and agitation, has need of careful revision.

Meanwhile we must incur no new expenses. Parliament will, therefore, have to occupy itself with those alone for which engagements have been made, or with those of evident urgency. But my government, in proposing them, will point out to you new measures to meet them.

In this manner you will succeed in establishing an equilibrium in the budget of the kingdom. This is the most ardent desire of the nation. This will be the fullest compensation for, and the most efficacious relief to, the sacrifices which the people have borne with such noble courage.

The regeneration of Italy will thus be cleansed of every stain. Italy will thus have the rare merit, in the history of political transformations, of never having entertained even the idea of betraying her public faith.

Senators, deputies: I am happy to assure you that we continue to be upon the best relations with foreign powers. I receive with pleasure continued proofs of the esteem in which friendship with Italy is held by other nations.

This is the reward for the moderation and firmness of our policy. Persevering in this course, we shall continue to show how liberty united with order may solve the most difficult problems, and Italy will not fail in her glorious destiny.

Providence has assisted us at every step, and this year has given to the country abundant harvest, thereby relieving the poorer classes, whose happiness never ceases to occupy my thoughts.

Let us thank God, and with the constant virtue of our thoughts and deeds let us continue to merit his protection and help.

No. 356.

Mr. Fish to Mr. Marsh.

No. 458.]

DEPARTMENT OF STATE,

Washington, January 19, 1875.

SIR: Your dispatch No. 522 of the 12th of October last, relative to the marriage of citizens of the United States in Italy, has been received. It is replete with luminous remarks, but the Department cannot concur in all its conclusions. The subject has been deliberately considered here prior to the framing of the new personal instructions. It has since, on several occasions, engaged attention, especially with reference to a dispatch from the legation at Paris, a copy of the instruction to Mr. Washburne,* in answer to which, is inclosed for your information.

You remark that you had only recently become aware that consuls of the United States in Italy had been in the habit of issuing certificates to meet the requirements of § 103 of the Italian civil code, which requires a declaration from competent authority that there are no impediments to a proposed marriage. It is probable, however, that the practice of issuing such certificates has long prevailed, and the Department sees no objection to them if due inquiry be made as to the facts before they are issued.

The purpose of Congress in requiring the presence of a consul at a marriage may have been to secure the testimony of an official witness of our own to the act, a witness, too, who would be bound to record the transaction in the archives of his consulate and attest it under his official seal.

Though unofficial witnesses might be held competent to testify, their testimony might not be held available when required. The parties to

*See under France, Mr. Fish to Mr. Washburne, No. 660.

the marriage, however, could always produce the consul's certificate when occasion might call therefor.

You are believed to be mistaken in saying that the 48th section of the new instructions of the Department expresses doubt as to whether marriage can be legally celebrated at all between citizens of the United States in a foreign country, unless it be solemnized in conformity with the laws of such country. Your mistake upon this point will, it is believed, be clear to you upon a further examination of the paragraph referred to. The Department has been careful not to express an opinion as to the validity of any marriage under particular circumstances. Its object has been merely to warn, so as to lessen, as far as might be practicable, the peril of contracting a marriage which in any case might be declared to be invalid. It is not the province of an executive department to decide the question.

The provisions of our act of 1860 upon the subject of marriages abroad are not supposed to have been influenced by the legislation of any other country. They are understood to have been in the main designed to correct a practice which prevailed at some points of marriages by consuls without reference to the local law.

Marriage at legations without regard to the law of the country, on the ground of extritoriality, as it is called, is at best a questionable proceeding, which it may be apprehended would scarcely be sanctioned by the courts of the nation where they were solemnized. The tendency of opinion is believed to be towards narrowing the immunities of diplomatic officers and their places of abode to those limits only which may be indispensable to enable them to discharge their official duties without molestation or restraint.

The use of the legation for the marriage of persons, even of the nationality of the country to which it belongs, cannot be said to be necessary or even convenient for diplomatic purposes.

The competency of this Government to provide generally for the marriage of citizens of the United States abroad has not been called in question, nor has any opinion upon that point been expressed.

You seem to have overlooked § 24 of the act of Congress of the 18th of August, 1856, which confers upon secretaries of legation authority to act as notaries in certain cases.

When the consequences of marriage in respect to property in possession, or which may be acquired by gift, purchase, or inheritance to the offspring of the parties, or to the peace of mind or good name of the latter, are duly considered, the weight of the responsibility which an officer of this Government abroad may incur by in any way countenancing a rash contract of that kind may become apparent.

I am, &c., &c.,

HAMILTON FISH.

No. 357.

Mr. Marsh to Mr. Fish.

No. 537.]

LEGATION OF THE UNITED STATES,
Rome, February 18, 1875. (Received March 13.)

SIR: The visit of General Garribaldi to the capital to take his seat as a member of the chamber of deputies has, under the peculiar circumstances of the case, assumed an importance which gives it the magnitude of a political event deserving of notice in my correspondence with the Department of State.

General Garribaldi, though an ardent advocate of liberal principles of government, is not the leader or representative of any political party in Italy, but he is known to be warmly opposed to many features of the policy of the present ministry, and the severe terms in which he had recently spoken of the cabinet led many to apprehend that on taking his seat as a deputy he would, by qualifying his oath of office, or some other irregularity, embarrass the proceedings of the chamber, and perhaps excite disturbance among the thousands who flocked to witness his entrance into the hall of the national parliament. I do not think General Garribaldi had in the least countenanced this expectation. He has never through life encouraged any appeal to popular passion, or any resistance to governments, except by legal measures, or in the way of organized and orderly attempts at revolution, and, from the moment of his arrival at Rome, he exerted himself to the utmost to restrain every manifestation of excitement and to maintain public tranquillity unbroken. But he had given no explicit assurance as to his intended course of action, and his appearance in parliament was looked forward to with no little anxiety in all quarters. His frank and full-toned *giuro*, in response to the oath, as pronounced to him by the proper officer, was received with loud applause by all persons, of whatever rank or party, present at the scene, and was felt as a great relief, not only by the ministerial party, but by many even of his most judicious friends, who feared that passion might betray him into some unguarded step prejudicial both to his own renown and to the best interests of his country.

He has since had satisfactory interviews with the King, with several of the ministry, and with many others of the most eminent persons in the nation, and he avows the intention of devoting his powers to plans of material improvement specially affecting the capital, instead of occupying himself with politics, and I suppose he will rarely, if at all, return to vote in the chamber of deputies.

His plans are not, so far as I know, altogether matured, but they embrace the securing of the city from inundation by canalizing or diverting the course of the Tiber, the construction of an artificial port near Fiumicino, in which the concurrence of the great capitalist and munificent patron of public improvement, Prince Alexander Torlonia, is hoped for, and measures for restoring the healthfulness of the Agro Romano, and rendering it once more habitable by man.

How far these great schemes will be countenanced by the government I cannot say, but I have no doubt they will receive the candid consideration of the ministry, and be sustained, so far as when elaborated, they shall seem expedient in themselves and feasible without involving an expenditure beyond the resources of the state.

Public opinion, I think, demands such a recognition of the patriotic course of General Garribaldi, and if his views and those of the ministry on these questions of immediate material interest can be reconciled, his influence will prove a potent support to the Italian government.

I do not, indeed, suppose that the general relations of parliamentary opposition and the ministry will be much affected by Garribaldi's new position; but practical measures in which he and the government concur will scarcely fail to receive the support of all parties. The influence of Garribaldi in Italy, and, I may say, in Europe, detached as he is from mere party ties, is moral rather than political, and it will, I believe, be of immense value in the maintenance of social order and the discouragement of illegal combination and factious cabal.

I have, &c.,

GEORGE P. MARSH.

No. 358.

Mr. Marsh to Mr. Fish.

No. 538.]

LEGATION OF THE UNITED STATES,
Rome, March 19, 1875. (Received April 12.)

SIR: Since the receipt of your instruction No. 458, dated January 19 1875, no American citizens residing in Italy have, to my knowledge, proposed to contract marriages with each other. There have, however been some cases within the year in which an American citizen residing in Italy has married a foreign husband or wife, but the legation has not been asked to sanction the marriage or in any way participate in the ceremony.

I have heard of one or two cases where an Italian citizen and an American citizen residing in Italy, not finding it convenient to comply with the requirements of Italian law, have repaired to Switzerland, where it is said that the forms are simpler, been married there, and returned to Italy to reside. I do not know that the validity of such marriages has been questioned, but I should certainly not have advised recourse to that method of celebrating a marriage.

The instruction is so full and clear that cases are not likely to arise which will occasion embarrassment to the legations; but I have been asked how the blanks in the consular certificate are to be filled. In the case of a marriage celebrated before an American consul by a foreign Protestant clergyman, the consul, I think, would hardly be justified in certifying that the marriage was solemnized by the Rev. A. B., a clergyman authorized by the laws of Italy to perform such ceremony, because there is no express provision on the point in the Italian code, though I am assured that such a marriage between American citizens would be held legal here. A certificate of marriage between an American citizen and an Italian woman in which the consul had stated that the ceremony was performed by A. B., a (foreign) Protestant clergyman, authorized by the laws of Italy to perform the ceremony, was brought to me for what is called here legalization; but I greatly doubted the validity of the marriage, and refused the attestation.

In case the question should arise in a marriage between American citizens, I should, unless otherwise instructed, incline to advise that the blank be filled with "laws of the United States," rather than "laws of Italy;" or, if not disapproved by the Department, that the words "authorized by the laws of to perform the ceremony" be omitted altogether.

I have, &c.,

GEORGE P. MARSH.

No. 359.

Mr. Cadwalader to Mr. Marsh.

No. 472.]

DEPARTMENT OF STATE,
Washington, April 15, 1875.

SIR: Your dispatch No. 538, of the 19th ultimo, has been received. It states, in its closing paragraph, that in a case of marriage between American citizens in Italy, you might advise that a blank in the con-

sular certificate should be filled with the words "laws of the United States." This, however, would, it is apprehended, not be a judicious course, and it might prove to be judicially untenable. The only law of the United States on the subject of marriage is that which provides that all marriages celebrated in the presence of a consular officer in a foreign country between persons who would be authorized to marry if residing in the District of Columbia are valid to all intents and purposes as if said marriage had been solemnized in the United States. The phrase "laws of the United States" might therefore be deemed to imply laws of the several States. Now, as the laws of the several States on the subject of marriage are various, if the certificate were to say that the marriage was performed according to the "laws of the United States," it might be held to be vague and inaccurate.

The United States statute on the subject of marriages above referred to (Revised Statutes, section 4082) defines those who may be married under its provisions, namely, "persons who would be authorized to marry if residing in the District of Columbia," but is silent as to the persons who may perform the ceremony. When, however, it speaks of "marriage in a foreign country," it is but reasonable to hold that to be a marriage, it must be solemnized (in the absence of authority given by the laws of the United States to any other person) by some person authorized, by the law of the country where the marriage takes place, to perform that ceremony, or in some mode recognized by such law.

In this view it is believed that the blank indicated by you in form of certificate No. 87, in Consular Regulations of September 1, 1874, should be filled with the name of the country in which the marriage takes place, and not refer to the authority of the party performing the ceremony, as derived from the laws of the United States, which do not give authority to any person to solemnize marriages. It is not supposed that actual statutory enactments are essential to give the authority, but such authority as would seem to exist in Italy for the performance of the marriage ceremony by a Protestant priest, as is inferred from the statement in your dispatch, that "while there is no express provision on the point in the Italian code," you are assured that such a marriage "between Americans would be held legal" in Italy.

Possibly it would be well to use the word "law," which will cover unwritten as well as statute law, instead of the word "laws."

I am, &c., &c.,

JOHN L. CADWALADER,
Acting Secretary.

JAPAN.

No. 360.

Mr. Bingham to Mr. Fish.

No. 124.]

UNITED STATES LEGATION, JAPAN,
Tokai, September 26, 1874. (Received October 29.)

SIR: On the 12th ultimo, Mr. Hawes, our consul at Hakodadi, by a dispatch of that date, notified me that Mr. L. Haber, late acting German consul at that port, had been murdered on the previous evening by a Japanese. The murderer was arrested, tried, convicted, and on the 10th

instant executed, and a proclamation was issued by the government condemning all such assassinations and manifesting a determination to visit such crimes with swift punishment. A copy of the proclamation is herewith inclosed.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 124.]

NOTIFICATION OF THE DAIJO KUAN.

To all the Chi, Fu, and Ken :

Tasaki Hidechika, who killed the German consul at Hakodadi, has undergone, on the 10th day of September, the punishment which his crime deserved. Before the revision of the code he would have been crucified, because he was a great criminal, who acted against the wish of the Mikado and contrary to the treaties with foreigners. The government has caused him to be decapitated, and this punishment will serve as an example to the people, and will show them that they ought to abstain from all criminal acts.

Judgment.

You thought that the relations of the Japanese with the foreigners compromised the dignity of the country, and you wished to avenge this wounded dignity by striking an European. You went to Hakodadi and you there killed, by blows of a sword, Mr. Haber, the German consul in that town. You are very guilty, and so the government, in expiation of your crime, degrades you from the rank of saumrai, and condemns you to be beheaded.

Ninth month, seventh year of Meiji.

No. 361.

Mr. Bingham to Mr. Fish.

No. 125.]

UNITED STATES LEGATION, JAPAN,
Tokai, September 26, 1874. (Received October 29.)

SIR: I have the honor to communicate herewith a notification by proclamation, issued on the 25th ultimo by order of this government, abolishing examination by torture of witnesses and of persons accused of crimes. I regret to say that, ("for a short period" to come,) in certain cases where difficulty occurs in the examination, torture may be employed, subject, however, to the restriction that the reasons for the employment thereof shall be reported monthly by the tribunal resorting thereto to the department of justice. Some time since, my attention being called to this inhuman practice in judicial administration in this empire, while I did not feel at liberty to officially intervene in the matter, as the usage was limited exclusively to Japanese subjects, I nevertheless deemed it my duty, unofficially, to bring the matter to the attention of Japanese officials, and to suggest to them in respectful terms, as I did, that the practice was violative alike of natural justice and of the enlightened judgment of civilized nations. It is a matter of congratulation that the first step has been taken toward the abolition of this inhuman and unjust rule of administration.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 125.—Translation.]

NOTIFICATION FORBIDDING TORTURE.

To the several courts and kens of the Empire of Japan :

This proclamation is made :

We have had a usage from former times of examination by torture. It would be a great wrong if under this usage innocent persons suffer ; therefore this practice shall no longer be exercised. However, for still a short period, in cases where any difficulty occurs in the examination without the exercise of torture, there is no objection to use it ; but a monthly report of all such cases shall be made to this department, which shall state the reason why torture is applied.

OKI TAKATOO,
Minister Judicial Department.

AUGUST 25, 1874.

No. 362.

Mr. Bingham to Mr. Fish.

No. 127.]

UNITED STATES LEGATION, JAPAN,
Токеи, September 26, 1874. (Received October 29.)

SIR: I have the honor to report the arrival, in health, of Professor Davidson and his associates, sent hither by order of our Government, to make observation of the transit of Venus on the 9th of December next. On the 7th instant, in anticipation of their coming, I addressed a communication to the minister for foreign affairs acquainting him that they were commissioned under the laws of my country to make observations of the transit of Venus from some point in Japan, and, to that end, requested for the professor and his associates the freedom of the empire. It gives me pleasure to say that on the 25th instant I received from the minister for foreign affairs, in reply to my communication, a pass for the professor and his party to visit, without limitation, any portion of Japan ; and, also, a proffer of Japanese officials to attend the party to contribute, as far as possible, to their personal comfort, and to witness the methods of taking the observations. I have the honor to transmit herewith a full copy of the text of the minister's communication to me, (inclosure 1,) and of my reply thereto, (inclosure 2.)

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 127.]

Mr. Terashima to Mr. Bingham.

FOREIGN OFFICE,
Tokio the 25th the 9th month, 7th year Meiji, (September 25, 1874.)

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 7th instant, asking me, on behalf of Professor Davidson and eight other astronomers sent hither by your Government to observe the transit of Venus in December next, for a pass to visit, without limitation of locality, any portion of Japan, and to select and temporarily occupy a place suitable for their purpose.

In reply I beg herewith to inclose the pass for these gentlemen. Availing of this favorable opportunity my government will appoint some officers to accompany these gentlemen for the purpose of obtaining astronomical information, and I sincerely request that these gentlemen take the trouble of explaining such matters, as our offi-

cers so appointed will travel in company with the gentlemen, and make everything as convenient for them in their journey as possible.

Hoping your excellency will be pleased to convey what is said above to Professor Davidson and the other gentlemen,

With respect and consideration,

TERASHIMA MUNENORI,

His Imperial Japanese Majesty's Minister for Foreign Affairs.

His Excellency J. A. BINGHAM,

Envoy Extraordinary and Minister Plenipotentiary of the United States.

[Inclosure 2 in No. 127.]

Mr. Bingham to Mr. Terashima.

No. 85.]

UNITED STATES LEGATION,

Токей, September 26, 1874.

YOUR EXCELLENCY: I have the honor to acknowledge your dispatch of the 25th instant, in which your excellency informs me that your government has, in accordance with my request, kindly granted a pass to Professor Davidson and his associates to visit any part of Japan for the purpose of observing, under the instructions of my Government, the transit of Venus. I have made known to Professor Davidson, as your excellency requested me to do, the purpose of your excellency's government to appoint officers to attend him and to obtain information of him as to his methods in this interesting work. I beg leave, in behalf of Professor Davidson, to thank your excellency's government for its proffered courtesy, and have the honor to inform your excellency that he will be pleased to have the Japanese officials attend him as proposed, and to impart to them the information desired. I beg leave, in behalf of my Government, to request that your excellency's government will telegraph the Japanese customs officials at Nagasaki to permit Mr. Edwards, the second assistant astronomer commissioned to this work, to receive from the Golden Age, upon its arrival in port, free of duty and without examination or delay, the instruments and outfit of the astronomical expedition, the property of my Government, and, when the work is completed, to reship the same without detention or payment of duties. I am authorized by Professor Davidson to say that there is nothing in this outfit but what especially appertains to the astronomical work assigned to him and his associates.

The professor also requests me to ask the further favor that your excellency's government will authorize the telegraph officials at Nagasaki to furnish him material and labor to aid him in constructing whatever short telegraph line he may have occasion to construct for the connection of his astronomical station with the cable and government lines at that port, the reasonable expenses of which the professor will pay. He also desires that your excellency's government will detail a government telegraph operator to assist him in the use of the telegraph lines, especially at night, for the determination of the difference of longitude, for which service also the professor will make payment.

Mr. Edwards has already gone forward on the Golden Age, and Professor Davidson leaves for Nagasaki on Thursday next, the 1st proximo. Your excellency will greatly oblige by sending the telegraph instructions to Nagasaki promptly, and by informing me of your action in the premises.

I have the honor to be your excellency's obedient servant,

His Excellency TERASHIMA MUNENORI,

Sec., Sec., Sec.

JNO. A. BINGHAM.

No. 363.

Mr. Bingham to Mr. Fish.

No. 132.]

UNITED STATES LEGATION, JAPAN,

Токей, October 8, 1874. (Received November 16.)

SIR: I have the honor to transmit herewith, for your information, a copy of a notification by the Japanese government to Chinese subjects resident in Japan (inclosure 1) informing them that in the event of

war between Japan and China they shall not be harmed by this government unless they engage in trade contraband of war, act as spies, or do other injury to this country. I have also the honor to inclose a copy of another notification (inclosure 2) which has reference to the Japanese expedition to Formosa, the occurrences there between the Japanese forces, and the efforts at negotiation by the ministers sent to China by Japan, &c. It is to be observed in this last notification that while it is said that the Emperor desires a peaceful result by negotiation, it is clearly stated therein that preparations are being made for war in the event of a failure to settle the difficulties by negotiation. A notice appearing in the papers that Mr. Wasson, the American citizen mentioned in my dispatches of April last, was recently in Nagasaki, awaiting orders to report to General Saigo, the Japanese commander in Formosa, I took occasion to request the minister for foreign affairs, by a dispatch of date the 1st instant, (inclosure 3,) to notify Mr. Wasson of the fact hitherto communicated to you, that he (Wasson) was detached from that service and should not proceed to Formosa. I have the honor to further inform you that in the latter part of September I received from Mr. Seward, at Shanghai, a dispatch of date the 1st ultimo, inclosing a note identically agreed upon by the foreign consuls at Shanghai for the protection of foreign commerce, &c., in the event of hostilities between Japan and China, (inclosures 4 and 5.) To this communication I replied in a letter (inclosure 6) dated the 25th ultimo. I respectfully submit the same for your consideration, hoping that my action may meet your approval, and especially desiring your instructions in the matter. I have this evening received a communication from the minister for foreign affairs asking me what Chinese, if any, are in the service of this legation, and requesting me to notify him in future if any Chinese shall be employed at the legation or discharged therefrom. To this I have replied that there are no Chinese in the employ of the legation at present, and that should any be employed therein or discharged therefrom in the future I shall inform him.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 132.—Translation.]

NOTIFICATION TO CHINESE SUBJECTS.

[From the Japan Weekly Mail, October 3, 1874.]

Chinese subjects.—The wicked inhabitants of Formosa have, in former years, murdered and plundered several tens of our Japanese subjects. Steps have, therefore, been taken to punish these offenses, and to protect our subjects from injury in the future. To this the Chinese government have objected, and our government has therefore dispatched officials to discuss this matter, but no conclusion has yet been arrived at. We hear that you, the Chinese subjects, resident in this country, are unnecessarily apprehensive lest it should be impossible to preserve peace between the two countries, and that, if war broke out, your persons would be imprisoned, and your property plundered and confiscated, and we are informed that you torment yourselves with all kinds of anxieties. If this is truly the case, your condition is a very pitiable one. But even if war should unavoidably break out, in what are you, the Chinese subjects, resident here, to blame? Except in the case of persons guilty of contraband trading, spying, or doing injury to this country connected with the war, the government of great Japan will neither imprison or plunder you. Take careful note of this, obey the instructions of this government, pursue your occupations in peace, and do not allow yourselves to be carried away by excitement.

(The above was notified on the 29th September to Chinese subjects resident in Japan in the Chinese and Japanese languages.)

SANJO SANEYOSHI,
Daijo Daijin, [Prime Minister.]

[Inclosure 2 in No. 132.—Translation.]

NOTIFICATION NO. 127 AS TO FORMOSA.

To the In, Sho, Shi, Fu, and Ken :

An expedition against the barbarous part of Formosa was announced in notification No. 65 of May last, and on the 22d of that month the commander-in-chief, Saijo Yorimichi, arrived there. The troops had arrived some days previously. They entered the territory of the savages, and were exploring its lands and waters when they were suddenly fired upon by them. Our troops then attacked them, and put them to rout. Eighteen heads of villages gave in their submission, one after another, and almost the whole savage territory was reduced to peace. We were thereafter engaged in preparing preventive measures for the future, when the Chinese government persistently objected. Yanagiwara Sakimitsu, our envoy extraordinary and minister plenipotentiary to that country, was therefore instructed to discuss the matter with the Chinese government, and numerous written communications and conferences were held. The further special step was then taken of dispatching to China Okubo Toschimichi as high commissioner plenipotentiary. It is, of course, the aim of His Majesty that these negotiations shall result in a peaceful settlement and in the preservation of amicable relations, but preparations are at the same time being made to meet any emergency in case circumstances leave us no other alternative than to do so.

His Majesty will give you his further commands with reference to the result of the negotiations to be conducted henceforward by our high commissioner to China.

SANJO SANEYOSHI,

Daijo Daijin.

SEPTEMBER 23, 1874.

[Inclosure 3 in No. 132.]

Mr. Bingham to Mr. Terashima.

No. 87.]

UNITED STATES LEGATION,

Tokai, October 1, 1874.

YOUR EXCELLENCY: I called at your office yesterday for the purpose of acquainting you with the fact that Mr. Wasson, a citizen of the United States, hitherto referred to by your excellency in your No. 26 of date the 22d April last addressed to me, and who, as your excellency then informed me, had, by the action of your excellency's government upon my request, been detached from service under the Japanese government in the Formosan expedition, is reported in the Japan Gazette of the 29th ultimo to be "in Nagasaki awaiting instructions to resume his position on General Saijo's staff," and "will probably sail for Formosa in a few days."

I have the honor to further inform your excellency that I communicated to my Government copies of my communications heretofore made to your excellency in which I protested against the employment of United States citizens and vessels in the Japanese expedition against Formosa, and a copy of your excellency's dispatch of the 22d of April, setting forth the action of your excellency's government as above stated, to which my Government has replied that the proceedings taken by me to detach the citizens of the United States and the steamer New York are approved. Not doubting that the instructions heretofore issued, as stated by your excellency, for the detachment of Mr. Wasson and the other citizens of the United States named in your excellency's dispatch of 22d of April were in accordance with the treaty obligations subsisting between the United States and Japan, and feeling quite assured that it has been and is the purpose of your excellency's government to carry the same out in good faith, I beg leave to respectfully request that your excellency will notify Mr. Wasson of the instructions issued by your government detaching him from service in the Japanese expedition against Formosa, to the end that he may not proceed to Formosa, in violation alike of the instructions of your excellency's government and of the laws of his country.

I have the honor to be your excellency's obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,
&c., &c., &c.

[Inclosure 4 in No. 132.]

Mr. Seward to Mr. Bingham.

No. 24.]

UNITED STATES CONSULATE-GENERAL,
Shanghai, September 1, 1874.

SIR: I have the honor to hand you herewith a draught of a dispatch which has been addressed by the several consuls at this port to their several ministers at Peking, looking to the need of action to secure the safety of our commerce and of our settlements in the event of war between China and Japan.

I am, sir, your obedient servant,

GEO. F. SEWARD,
*Consul-General.*Hon. JOHN A. BINGHAM,
United States Minister to Japan, Yeddo.

[Inclosure 5 in No. 132.]

Draught of an identical note to be sent by each consul to his ministerial representative at Peking.

SIR: The probability of a war between China and Japan having of late attracted much attention, and the possibility of such a contingency not by any means having passed over, it has occurred to myself and some of my colleagues to consider what would be the position of the foreign settlements of Shanghai in such an unfortunate event, and how far it would be expedient to adopt such precautions as may render that position a comparatively safe one. It does not need any extraordinary foresight to predict that Shanghai, from its importance as a commercial center, and from its proximity to one of the few arsenals which China possesses, will become a focus of attack in case of hostilities being declared, and in that event the foreign settlements will be at once exposed to extreme danger, inasmuch as they stand (that portion called British more especially) exactly in a quarter where any outworks necessary to cover the city from hostile approach by the river must be constructed.

No move has been as yet made by the Chinese toward the utilization of this strategic position, but they may at any moment see fit to occupy it, and should they do so, and hostilities supervene, the consequences to neutral life and property may be very serious. The conclusion appears to myself and colleagues obvious, that, if such a sacrifice can be in any way averted, no effort ought to be left untried to avert it; and the alternative we would venture to propose is that advantage should be taken of the presence in Peking of a Japanese minister plenipotentiary, to negotiate for the neutralization of the ground covered by the foreign settlements, and a stipulation that nothing shall be done on either side to endanger the safety of the residents therein or of the property in their keeping. The Tantai of this place, it is believed, will be quite willing to give his consent to this proposition, and I beg to submit it to your excellency, in conjunction with such of my colleagues as are more directly interested, and each of whom has addressed an identical note to his minister, in the hope that the scheme may meet with your favorable consideration. I may refer here to the 26th article of the United States treaty with China, which provides for the immunity of American commerce in case of war, and to suggest that such further negotiation may be undertaken with the Japanese as will render this provision operative as far as they are concerned; and, in this connection, it may be mentioned that the Chinese are likely to obstruct the Woosung Bar in case of war, unless some means are adopted to prevent them taking this course. Various and serious questions, it must be confessed, will be involved in the adoption of the proposed measure; but as these must of necessity occur to your mind, and their discussion scarcely comes within my province, I prefer to submit the simple proposition, free of all observation or remark.

My colleagues agree with me that it is also beyond our province to propose that any arrangements arrived at shall embrace all the foreign settlements in China and Japan, but it may not be amiss to point out how obviously desirable such an extension would be.

[Inclosure 6 in No. 132.]

Mr. Bingham to Mr. Seward.

No. 102.]

UNITED STATES LEGATION,
Tokai, September 25, 1874.

SIR: I have to acknowledge the receipt of your dispatches 23 and 24, dated the 7th August and the 1st September, respectively, and tender you my thanks for the same.

The regulations of the consular courts in China, inclosed with your No. 23, upon such examination as I have been able to give them, seem to me satisfactory and worthy of consideration here. The note identical, inclosed in your No. 24, I consider to be called for in the present exigency, and should war be declared between Japan and China, the adoption of the same should be insisted on by the foreign representatives accredited to both nations. I have this to suggest: that the foreign settlements, or places exclusively occupied by foreigners, in each empire, should be declared by the sovereign authority of each inviolate in the event of war, and should be respected alike by the forces of Japan and China. What is said in the note identical touching the 26th article of the United States treaty with China is a matter of the first importance to the people of the United States, and it shall be my pleasure, as it is my duty, to co-operate with you and with all the representatives of our common country in securing to our people the full benefit of that article, if, unhappily, a public, solemn war shall obtain between Japan and China.

I am, sir, your obedient servant,

JNO. A. BINGHAM.

GEO. F. SEWARD, Esq., &c.,
Shanghai.

No. 364.

Mr. Cadwalader to Mr. Bingham.

No. 84.]

DEPARTMENT OF STATE,
Washington, November 6, 1874.

SIR: Referring to your dispatch No. 27, in relation to the facilities extended Professor Davidson and his associates by the Japanese government to enable them to make observations of the transit of Venus, a copy of which was communicated to the Secretary of the Navy, I transmit herewith a transcript of a letter addressed to this Department by Admiral Reynolds, acting Secretary of the Navy, requesting that the thanks of the Navy Department be conveyed to the authorities of Japan for the facilities extended to the party referred to for the purposes therein mentioned. I will consequently thank you to comply with his request.

I am, &c.,

JOHN L. CADWALDER,
Acting Secretary.

[Inclosure in No. 84.]

Admiral Reynolds to Mr. Cadwalader.

NAVY DEPARTMENT,
Washington, November 5, 1874.

SIR: The Department is gratified to receive your letter of the 3d instant and its inclosures.

I have the honor to request that you will convey to the authorities of Japan the thanks of the Department for the facilities extended Professor Davidson, United States Navy, and his associates, to enable them properly to observe the transit of Venus; also to Mr. Bingham for his prompt action in the matter.

I am, sir, very respectfully, your obedient servant.

WM. REYNOLDS,
Acting Secretary of the Navy.

The Honorable JOHN L. CADWALADER,
Acting Secretary of State.

No. 365.

Mr. Bingham to Mr. Fish.

No. 151.]

UNITED STATES LEGATION, JAPAN,
Токей, November 19, 1874. (Received December 26.)

SIR: I have the honor to report that, on the 10th instant, I received the inclosed letter, revised "hunting regulations" and protocol, from the minister of foreign affairs. On Saturday last, Sir Harry S. Parkes called upon me and asked my opinion of the same, intimating to me that the government of Japan could not enact laws for the government of British subjects without the approval of the British representative; in other words, the laws passed by Japan were not to be observed, nor regarded as obligatory, by British subjects, save when promulgated and approved by the British representative in the form by him adopted.

Sir Harry read to me the orders in council of Great Britain, which in substance authorize him to legislate over British subjects in Japan, reserving, however, to the home government the power of disapproval. I deemed it proper to reply to Sir Harry in this conversation that I was not authorized to legislate generally over American citizens; that the act of June 22, 1860, only authorizes rules of procedure, orders or decrees, and the like, to carry the act and treaty into effect; and that I saw no objection to the inclosed regulations, except that the penalties and mode of procedure could not apply to American citizens.

The 4th section of the act may be said to contain the most general grant of power to representatives of the United States in the provision that, "if defects still remain to be supplied, and neither common law, including equity and admiralty, nor the statutes of the United States furnish appropriate and suitable remedies, the ministers in the said countries, respectively, shall by decrees and regulations, which shall have the force of law, supply such defects and deficiencies." This, together with all the other provisions of our laws, but confirm me in the opinion, which accords with your instructions to my predecessor and myself, that the power conferred upon the ministers and consuls of the United States by the act of 1860 is to enforce in Japan the laws of the United States and the laws of Japan not in conflict with the treaties and laws of the United States, by prescribing rules and remedies when "no appropriate remedy" can be found under the statute laws of the United States or at common law, including equity and admiralty.

Yesterday I attended a joint meeting of the foreign representatives, and took occasion then to possess the foreign representatives of my views as herein expressed. They all seemed to agree that there was nothing in the revised regulations and protocol to object to, save what I have hereinbefore stated; that the penalties prescribed and the mode of trial could not apply to citizens or subjects of the treaty-powers; but they desired a collective note, to the effect that the Japanese minister for foreign affairs should be so advised, and that he should be further advised that each minister would consult his government in regard to a uniform system, to which I assented, reserving my right to qualify my approval of the note so as to accord with my views as herein expressed. The collective note has not yet reached me, but will be forwarded by me as soon as received.

That my position may be fully understood, allow me to state that it appears clear that, under the existing treaties with the United States, Japan retains the power to legislate by general laws over all citizens of the United States resident in Japan, in common with all other persons,

subject to this restriction : that the laws so enacted be reasonable and not in conflict with any privilege guaranteed by treaty to the United States or any citizen thereof, and that they require of our citizens no service in contravention of the laws and treaties of the United States. The 6th article of the treaty of 1858, by necessary implication, declares the right of this government to define and prohibit by law within its domain all crimes and offenses against the state or against person or property; but inasmuch as the same articles provides that Americans committing offenses against Japanese shall be tried in American consular courts, and, when guilty, "shall be punished according to American law," it follows, of necessity, that any penalty for any offense against Japanese law, not in accordance with the penalty prescribed by American law for the same offense, cannot be imposed upon our citizens. That such Japanese laws, however, are operative upon American citizens, and are to be enforced upon American citizens by American tribunals, seems to be implied by the provisions of the 2d section of the act of 1860, (Statutes at Large, vol. 12, p. 72,) which declares that the American tribunals named are fully empowered to arraign and try, as therein provided, "all citizens of the United States charged with offenses against law."

I am, &c.,

JNO. A. BINGHAM.

[Inclosure No. 151.—Translation.]

Mr. Terashima to Mr. Bingham.

No. 94.]

FOREIGN OFFICE,
Tokai, the 10th, 11th month, the 7th year of Meiji. (November 10, 1874.)

YOUR EXCELLENCY: The shooting regulations, as per inclosure A, and the penaregulations for violation thereof by foreigners, inclosure B, having been framed, the undersigned begs to submit them to your excellency, and will feel obliged to have your reply, whether they meet with your approval or not.

With great respect,

TERASHIMA MUNENORI,
H. I. J. M's. Minister for F. A.

To His Excellency JOHN A. BINGHAM, &c., &c.

[Subinclosure 1 in No. 151.—Translation.]

REVISED HUNTING REGULATIONS.—PART I.

ARTICLE 1. The hunting of birds and beasts with fire-arms as a means of subsistence, is called *shoku riyo*, (professional hunting;) when it is done merely as a pastime it is called *yu riyo*, (pleasure hunting.)

ART. 2. Shooting without a license is henceforth forbidden. Permission to use fire-arms will occasionally be granted by the local authorities for the frightening off or killing of noxious birds or beasts, when such permission is deemed expedient.

ART. 3. Persons wishing to shoot, either professionally or for amusement, shall address themselves to the local government office, stating their names, nationality, residence and position, and age; and, having obtained a license, shall invariably carry it with them when out shooting.

ART. 4. The license is only for personal use, and shall be valid only for the season in which it is taken out. It can be neither sold nor lent to any other person.

ART. 5. On receipt of a license a fee of one yen* for "*shoku riyo*," (professional hunting,) and of ten yen for "*yu riyo*," (pleasure hunting,) shall be paid.

ART. 6. No licenses shall be issued to the following classes of persons:

To persons under sixteen years of age; to persons unacquainted with the use of a owlng-pie ce; to persons who are idiotic, crazy, or otherwise similarly incapable; to

persons who have been previously punished for the unlawful discharge of a bow or a gun; to keepers of forests, fields, streams, &c.; to persons who, having been convicted of a breach of the regulations, shall not have obeyed the sentence imposed for that infraction.

ART. 7. Shooting is forbidden, even for a person holding a license: 1. In towns and places where there is a collection of houses. 2. In all places within 50 ken (100 yards) of any dwelling. 3. In places crowded with people or in the direction of persons or buildings, whereby either could be injured. 4. In places where a notice prohibiting shooting is posted up, such notice showing two fowling-pieces crossing each other, and over them four Japanese characters, signifying "shooting forbidden here." 5. In all places covered with crops. 6. Within inclosures around temples, &c.

ART. 8. Only Japanese guns carrying a ball of less than 4 mome 8 fem weight, or foreign-made sporting-guns, are to be used in shooting; the use of military rifles is forbidden. Persons who possess fowling-pieces shall comply with the regulations for fire-arms.

ART. 9. The shooting season shall extend from the 15th of September to the 15th of March, inclusive. No shooting is allowed out of season, which, however, may be prolonged or shortened according to circumstances of locality; moreover, there are some places distant from dwellings, such as those situated among mountains, for which the shooting season is undetermined.

ART. 10. Shooting is forbidden during the hours intervening between sunset and sunrise.

ART. 11. Persons out shooting must exhibit their license on demand.

ART. 12. Any land-owner who objects to persons shooting upon his premises may put thereon a notice, notifying persons to refrain therefrom, as provided in article 7 and shall inclose his land with a line, cord, or temporary fence.

[Subinclosure 2 in No. 151.—Translation.]

PENAL REGULATIONS.—PART II.

ARTICLE 13. In case complaint is brought against any one, while out shooting, before the government office of the locality wherein the person resides, all expenses pertaining to such complaint shall be met according to the general notification by the party who has been adjudged to be in the wrong.

ART. 14. In case of a second offense the fine can be doubled.

ART. 15. Should any person, guilty of an infraction of the regulations, make a false statement, or act in a threatening manner, he shall be sentenced, on conviction, to the heaviest penalty the law inflicts in such cases.

ART. 16. Any offender who is unable to pay the fine shall be punished with hard labor.

ART. 17. Any person causing personal injury to another by infliction [infraction] of any of the regulations shall be compelled to indemnify the sufferer.

ART. 18. Any person informing and testifying against an offender of any of the regulations shall be rewarded with half of the amount of the fine levied from the offender.

ART. 19. Any person committing any infraction of any of the regulations shall be liable to a fine of not less than 3 yen, (\$3,) and not more than 20 yen, (\$20.)

[Subinclosure 3 in No. 151.—Translation.]

PROTOCOL.

In order to arrive at an understanding with regard to the uniform application to foreigners of the shooting regulations published by the Japanese government, the undersigned have agreed to the following provisional arrangement:

1. Foreigners residing at the open ports or places wishing to obtain shooting-licenses, shall apply, through their respective consulates, to the Japanese authorities, who will thereupon issue licenses giving applicants the right to shoot within the so-called treaty-limits around all the open ports or places, from the 15th September to the 15th March.

2. Foreigners residing or traveling outside of the treaty-limits shall apply to the local Japanese authorities for a license, which shall be issued, subject to such rules and conditions as the local authorities may determine in addition to the regulations hereafter mentioned.

3. Those passages of Part I of the revised shooting regulations of the Japanese government of the 10th of November, 1874, which refer to professional hunting and the use of fire-arms, for the frightening away of noxious birds, &c., also articles 6 and 8, and all the articles of Part II of the same regulations, shall not apply to foreigners.

4. Any foreigner being out shooting without having taken a license or without having it with him, or using a license not his own, or refusing to exhibit it, or shooting in places or at hours forbidden, or out of season, shall be liable, on conviction before his consul, to a fine of not less than 3 yen nor more than 20 yen for a first offense, and not exceeding 40 yen for a second offense, the amount of the fine to go to the Japanese government.

5. Any foreigner inflicting damage on crops or other property, or personal injury to any individual, shall be obliged to indemnify the sufferer. The offender shall be sued before his authorities, and the court may appoint two experts, one of whom shall be a Japanese, to assess the amount of damage done. But the payment of such indemnity shall not protect a foreigner against any criminal prosecutions or other proceedings to which he may have rendered himself liable.

The undersigned foreign representatives will take the necessary measures for enforcing the observance of the above agreement by their respective nationals.

No. 366.

Mr. Fish to Mr. Bingham.

No. 91.]

DEPARTMENT OF STATE,
Washington, December 2, 1874.

SIR: Referring to your dispatch No. 131, of the 6th October last, explanatory of your course with reference to co-operation with your colleagues on the occasion of their intervention upon the arrest of a servant of the translating secretary of Her Britannic Majesty's representative in Japan, I inclose herewith for your information a copy of an instruction * of yesterday's date, addressed to General Schenck, the minister of the United States, at London, upon the subject.

I am, &c.,

HAMILTON FISH.

No. 367.

Mr. Fish to Mr. Bingham.

No. 92.]

DEPARTMENT OF STATE,
Washington, December 3, 1874.

SIR: Your dispatch No. 132, dated October 8, has been received. It forwarded to the Department, with other inclosures, a notification of the Japanese government assuring Chinese residents in Japan of protection in their persons and property in the event of war, on observing strict neutrality; a copy of the joint note prepared by the consuls at Shanghai, looking to protection in case of war; and a copy of your note to the minister of foreign affairs requesting the enforcement of the order detaching Mr. Wasson from the Japanese expedition to Formosa.

It is a matter of sincere congratulation that the government of Japan should voluntarily take occasion to assure Chinese residents within that empire of the protection of the government on their observance of strict neutrality. Such voluntary acts go far to show a real advance in civilization on the part of that empire.

* See under Great Britain, Mr. Fish to General Schenck, No. 641.

Mr. Seward, the consul-general of the United States at Shanghai, has already communicated to the Department a copy of the joint note of the consuls at Shanghai looking to a state of war.

The reported settlement of the Formosa question renders an examination of any particular plan to secure immunity to the foreign settlements unnecessary. The Department, however, approves the general efforts which have been made in that direction.

Concerning your letter to the minister of foreign affairs in reference to Mr. Wasson, as an order had been issued that he should be detached, your application seems to be a request that such order should be enforced.

It does not seem necessary, in view of the instructions already issued to you, to discuss the general questions which are suggested by the employment of Mr. Wasson.

I am, &c.,

HAMILTON FISH.

No. 368.

Mr. Bingham to Mr. Fish.

No. 158.]

UNITED STATES LEGATION, JAPAN,
Токей, December 4, 1874. (Received December 30.)

SIR: I have the honor to inform you that, on the 28th ultimo, I received a communication from Thomas B. Van Buren, esq., asking me to consent to the adoption by him as American consul-general of certain regulations (inclosure 1,) to be enforced as law upon all American citizens resident in Yokohama. I replied to this note, as per inclosure 2, on the 30th ultimo. You will observe in my reply that I state to Mr. Van Buren that I give the opinion therein expressed under the impression that it accords with the instructions heretofore given by the Department to this legation. You will also observe by referring to the proposed regulations that it is expressly declared therein that every British subject residing in Yokohama shall observe the provisions thereof, and that every such subject guilty of a violation thereof, as provided in the sixth article, shall be liable to prosecution, and, on conviction, to forfeiture of license and to imprisonment, with or without hard labor, not exceeding three months, with or without a fine not exceeding two hundred dollars, &c.

It should also be observed that Mr. Van Buren asks me to favor the enactment of these regulations as law over American citizens resident in Yokohama. You will notice that in reply I have expressed to him the opinion that the United States consuls (or minister) in Japan are not authorized to enact penal laws and subject American citizens to the penalties thereof, while I am of opinion that by the orders in council of the British government, its minister in Japan is authorized to subject British subjects therein to laws of his enactment. Having stated this much to the consul-general, I informed him that I would ask the instructions of the Department on this subject, to the end that he might be fully advised of his powers in the premises.

I would respectfully refer to my No. 151, of date the 19th ultimo, for some expression of my views on this question of legislative power in Japan. I have the honor to refer also to my No. 17, of November 17,

1873,* in which I gave my opinion in relation to the hunting regulations, in response to instruction No. 5,† and in which I expressed the opinion that—

I find (found) nothing in the treaty of 1858 which in anywise denies to Japan the general power to legislate over all persons within her territorial limits by general laws * * * and that no person resident therein is privileged by any treaty to disregard and violate such general law enacted by Japan.

Not violative of express and special privileges guaranteed by treaty to foreign governments or citizens. In reply to this last dispatch I received from the Department instruction No. 18, ‡ in which the Department was pleased to say that the views expressed by me in relation to the character of the local laws and regulations enacted by Japan were “entirely in accord with the views entertained by the Department.” At the same time the Department was also pleased to express the opinion that—

The right of the authorities of Japan to enact and promulgate laws for the government, security, and good order of its own people cannot of course be questioned for a moment, &c. * * * Citizens of the United States resident in Japan are expected and required to observe and obey such laws in the same manner and to the same extent that the like obligation rests upon the subjects of that empire.

The instruction then declares that in the enforcement of the laws of Japan and the imposition of penalties for their infraction by citizens of the United States, our consular courts in Japan shall proceed according to the laws of the United States.

I have supposed that there was no law-making power in the United States that could impose penalties upon American citizens by general law to be enforced throughout the jurisdiction of the United States, whether at home or abroad, save the Congress of the United States. Surely it results, if an American consul can enact penal laws in the manner proposed over American citizens in Japan, that he may extend his enactments as to them over all subjects whatever, and may, therefore, exercise the highest sovereignty known to the United States under their Constitution, viz, the general legislative power.

I am of opinion that instruction No. 48 to my predecessor, dated the 20th December, 1870, fully sustains the views which I have herein expressed as well as the views on the same subject which I have heretofore had the honor to communicate to the Department. I know of no color of authority conferred upon the consuls (or minister) of the United States in Japan to legislate in Japan beyond the provisions of the act of June 22, 1860, which the Department has, in my judgment, correctly interpreted in its No. 48 before mentioned as conferring power upon the minister, &c., only to regulate the course of procedure in pursuing judicial remedies, and not as conferring power upon the minister and consuls of the United States in Japan to create “new rights or duties in citizens of the United States,” or to modify “personal rights and obligations under the existing law.”

I have said, it seems to me, all that is needful on this subject to acquaint you with the reasons of my opinion in relation thereto, and respectfully submit the same for your consideration.

I am, &c.,

JNO. A. BINGHAM.

* See Foreign Relations for 1874, page 653.

† See Foreign Relations for 1874, page 645.

‡ See Foreign Relations for 1874, page 658.

[Inclosure 1 in No. 158.]

Penal regulations for the government of British subjects.

1. Every British subject residing in Yokohama, and desiring to retail wine, beer, or spirits to be drunk on the premises, shall be required to take out a license.
2. Application for such license shall be made in writing to the British consul, and such license shall not be granted for a longer or shorter period than twelve months, renewable annually on application.
3. Every holder of a license shall pay monthly, in advance, a fee at the rate of twelve dollars a month, such fee to go to the Japanese authorities and to be applied to the maintenance of the local police force.
4. The number of licenses to be issued shall be at the discretion of the consul.
5. No British subject licensed to sell beer, wine, or spirits by retail, to be drunk on the premises, shall suffer any beer, wine, or spirits to be drunk on such premises at any time before 5 o'clock of the morning or after 12 o'clock at night of any day of the week.
6. The sale by retail of beer, wine, or spirits to be drunk on the premises, or the suffering of any beer, wine, or spirits to be drunk on the premises of any licensed house before the hour of 5 a. m. or after the hour of 12 midnight, or the keeping of a disorderly house, shall render the offender liable to prosecution and, on conviction, to forfeiture of license and to imprisonment, with or without hard labor, not exceeding three months, with or without a fine not exceeding \$200, or a fine not exceeding \$200 without imprisonment.

[Inclosure 2 in No. 158.]

Mr. Bingham to Mr. Van Buren.

UNITED STATES LEGATION,
Tokai, November 30, 1874.

SIR: In reply to your No. 368, of date 28th instant, inclosing a copy of penal regulations prepared by the British consul for the government of British subjects residing in Yokohama, I have to say that while it is exceedingly desirable that some legal regulations should be made in the premises so as to control the retail of ardent spirits, the keeping of disorderly houses, &c., I doubt much whether the penal provisions of the proposed regulations can be enacted by an American consul or minister into law for the government of American citizens. I give you this opinion under the impression that the scope of instructions heretofore given by the Department to this legation justifies the conclusion at which I have arrived.

I would say further that it is my opinion that the power has not been conferred by the United States upon the consuls or minister in Japan to enact penal laws for the government of American citizens resident therein, while, in my judgment, the British minister is authorized to so legislate over British subjects in Japan. I shall ask the instructions of the Department on the subject, to the end that you may be fully advised of your powers in the premises.

I am, sir, your obedient servant,

JNO. A. BINGHAM.

General THOMAS B. VAN BUREN,
Consul-General of the United States, Yokohama.

No. 369.

Mr. Bingham to Mr. Fish.

No. 164.]

UNITED STATES LEGATION, JAPAN,
Tokai, 18th December, 1874. (Received January 28, 1875.)

SIR: Referring to my No. 151, of date the 19th ultimo, in relation to the revised hunting regulations and protocol submitted to the foreign representatives by the minister for foreign affairs, I have the honor to report that it was finally agreed among the foreign representatives to

reply severally to the minister for foreign affairs, substantially to the effect that while the regulations proposed are deemed just and reasonable, the proposed changes in existing treaties as to the tribunal, and penalties in cases arising under the regulations, ought to be submitted to their respective governments for instructions, pending which the further discussion of the question should be postponed.

I have the honor to inclose herewith a copy of my note to the minister for foreign affairs upon the subject, dated the 30th ultimo.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 164.]

Mr. Bingham to Mr. Terashima.

No. 115.]

UNITED STATES LEGATION,
Токей, 30th November, 1874.

YOUR EXCELLENCY: I have the honor to, acknowledge the receipt of your dispatch, of date the 10th instant, inclosing a copy of the revised hunting regulations recently framed by the Japanese government, together with a protocol in relation thereto, which your excellency has submitted for approval to the several foreign representatives.

In concert with the other foreign representatives, having considered your excellency's dispatch, with its inclosures, I have the honor to inform your excellency that, in common with my colleagues, I regard the provisions of the hunting regulations which your excellency desires to apply to foreigners resident in Japan as just and reasonable; but inasmuch as the protocol proposed by your excellency for my approval provides for certain changes in the existing treaties, I concur with my colleagues in asking your excellency to consent to the postponement of further discussion on the subject until all the foreign representatives shall have made the necessary reference to their respective governments, and shall have received such instructions and powers as may be necessary to enable them to act upon your excellency's propositions.

I have the honor to be, your excellency's obedient servant,

JNO. A. BINGHAM.

No. 370.

Mr. Bingham to Mr. Fish.

No. 165.]

UNITED STATES LEGATION, JAPAN,
Токей, 18th December, 1874. (Received January 28, 1875.)

SIR: On the 14th ultimo, I was called upon by F. Diaz Covorrubias, esq., president of the astronomical expedition sent hither by the government of Mexico to observe the transit of Venus.

Mr. Covorrubias handed me a letter addressed to me by Mr. Foster, our minister to Mexico, commending him and his associates to my good offices, and requested me, inasmuch as Mexico had no representative in Japan, to acquaint the minister for foreign affairs of their presence and mission, and of their desire to obtain permission of this government to establish stations of observation, &c. I deemed it my duty, under my general instructions, to show this act of courtesy to the representatives of our sister republic, and accordingly addressed to Mr. Terashima an unofficial note, of date November 14, 1874, a copy of which is herewith. (Inclosure 1.) It gives me pleasure to say that Mr. Terashima was pleased to grant the request of the Mexican commissioners, as he informed me by a note dated the 19th of November. (Inclosure 2.)

I am gratified to say that every facility was afforded to the Mexican commissioners to make the observations with which they were charged. They were greatly favored on the day of the transit, it being clear and cloudless at Yokohama, where they had established their stations, and it is reported that they were very successful in taking observations of the transit.

Trusting that my action in the premises may meet your approval,
I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 to No. 165.]

Mr. Bingham to Mr. Terashima.

[Unofficial.]

UNITED STATES LEGATION,
Tokei, November 14, 1874.

YOUR EXCELLENCY: I have the honor to inform you that I am in receipt of a communication from Hon. John W. Foster, United States minister to Mexico, in which he acquaints me that the government of Mexico has appointed commissioners to observe the transit of Venus, viz, F. Diaz Covarrubias, chief of the expedition, and as assistants, F. Junarez, D. M. Fernandez, D. A. Brevoso, and D. F. Bulues.

These gentlemen, having arrived in Japan, and preferring not to proceed to China, as they have been authorized to do, ask my good offices, in the absence of a Mexican minister in this Empire, to make known their presence in Japan and the duties assigned them, to the end, if it please your excellency's government, that a permit may be given to them to locate in Japan, at such place as may be deemed advisable, a station for making the observations, and also the privilege of erecting a telegraph line to connect their station of observation with the nearest telegraph office of the Empire.

It gives me pleasure to commend these gentlemen as of high character and attainments, and to say that they have expressed the wish, if it be agreeable to your excellency's government to grant their request, that your excellency's government will designate some Japanese officials to join them and to witness their methods in taking the observations, and to aid them in the use of the telegraph.

May I ask the favor of an early reply to this communication?

I have the honor to be, your excellency's obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,
H. I. J. M.'s Minister for Foreign Affairs.

[Inclosure 2 in No. 165.—Translation.]

Mr. Terashima to Mr. Bingham.

FOREIGN OFFICE,

Tokei, the 19th, the 11th month, the 7th year of Meiji. November 19, 1874.)

SIR: I have the honor to acknowledge the receipt of your letter dated the 14th instant, informing me of the arrival of Mexican commissioners to observe the transit of Venus and of their wishes to locate a station at a favorable place for the observation, and to erect a telegraphic line, and to connect it with the nearest telegraphic office.

The present observation being very important to the advancement of the science of astronomy, I have the honor, in reply, to comply with your request, of which I will notify the proper authorities.

I beg leave to request you to inform me of the locality where the station is to be erected.

With great respect,

TERASHIMA MUNENORI,
H. I. J. M.'s Minister for Foreign Affairs.

To His Excellency JOHN A. BINGHAM, &c.

No. 371.

Mr. Bingham to Mr. Fish.

No. 169.]

UNITED STATES LEGATION,
Tokai, January 2, 1875. (Received February 8.)

SIR: I have the honor to report that, in pursuance of an invitation extended to me by His Majesty the Emperor through the minister for foreign affairs, I joined my colleagues at the imperial palace on the 1st instant to tender my congratulations to the Emperor.

My colleagues and myself being duly presented to His Majesty, Sir Harry Parkes, as dean of the diplomatic corps, read to His Majesty, on behalf of himself and colleagues, an address, a copy of which is herewith inclosed, to which His Majesty, as will be seen from the copy of his reply herewith, was pleased to express his thanks and congratulations.

You will observe that the Emperor, in the address of last year as also in the address of this year, expressly named presidents as well as sovereigns as the chief executives of friendly states represented at his court.

It gives me pleasure to note that on this occasion Her Majesty the Empress was present.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 169.]

Address of the foreign representatives to His Majesty the Tenno, on January 1, 1875.

SIRE: The foreign representatives accredited to your Majesty's court, desire to offer to your Majesty their cordial congratulations on the occasion of the New Year. They regard with sincere satisfaction the maintenance by your Majesty of relations of peace and friendship with all foreign powers, and they trust that the year now opening may be distinguished by the advancement and prosperity of your people, and by much personal happiness to your Majesty and your august consort.

[Inclosure 2 in No. 169.—Translation.]

Reply of His Majesty the Tenno to the foreign representatives, January 1, 1875.

I am extremely rejoiced at the expression of sincere congratulation proffered to me by the representatives of friendly states on the occasion of the New Year. I hope that the sovereigns and the presidents of the friendly states will enjoy the New Year in health and prosperity.

I congratulate you on having entered on a new year in good health.

No. 372.

Mr. Fish to Mr. Bingham.

No. 115.]

DEPARTMENT OF STATE,
Washington, January 7, 1875.

SIR: Your dispatch No. 158, treating of the subject of the power of the representatives of the United States in Japan to make regulations, having the force of law, in reference to licenses, has been received, and your general views as therein expressed are believed to coincide with the views heretofore expressed by this Department.

This Department is of opinion that no such power has been conferred upon the minister of the United States as is claimed by the representative of Great Britain over British subjects in Japan.

It is believed that action by Congress on these questions is desirable, either by the enactment of certain provisions of law binding upon citizens of the United States in Japan, or by providing for a delegation of the power to make such enactments.

Before taking definite action in this matter, the Department desires to be informed what powers, if any, are claimed by the consular board, as such, to make regulations on this subject, and whether this power is claimed by the several consuls to have been conferred by their separate governments; and what authority exists therefor; and what authority on these questions has been conferred by the other treaty-powers upon their ministers in Japan.

The Department further desires to be informed by what authority the general, municipal, and police regulations of Yokohama, or other towns, are adopted and made binding, and what difference there may be in this respect in the towns occupied by foreigners.

Full information on these questions is desired.

I am, &c.,

HAMILTON FISH.

No. 373.

Mr. Bingham to Mr. Fish.

No. 173.]

UNITED STATES LEGATION, JAPAN,
Tokei, January 19, 1875. (Received February 24.)

SIR: The politic and just recommendation, as it seems to me, of the President in his recent message, to the effect that the increase, in part or in whole, of the Simonosëki indemnity, received by our Government, be appropriated to educational purposes in Japan, has been made the subject of another criticism by one of the English journals published at Yokohama, which, to use the words of the journalist, I report "as part of the history of the affair," and as an indication of its treatment by the English press in this country. The article speaks for itself. Notwithstanding what is therein stated, or that has heretofore been stated by the English journalists with so much manifest ill-will toward America and her institutions, about a matter which in no wise concerned them and with which they had no legitimate right whatever to deal, nothing is to my mind clearer than that the application, as suggested by the President, of the increase of this fund to educational purposes in Japan would strengthen American influence and promote American interests in this empire. I have the honor to submit this matter to your consideration, and desire to express the hope that the suggestion of the President will be accepted and carried out by the present Congress. It has occurred to me that it is not improper to suggest, if it meets your approval, that a brief section authorizing the Department of State to appropriate the past and future increase of this fund for the education in Japan of Japanese and American youths, would most readily command the support of the present Congress. A bill stating amounts, &c., would, in my opinion, be more likely to excite debate and cause opposition.

I am, &c.,

JNO. A. BINGHAM.

No. 374.

Mr. Bingham to Mr. Fish.

No. 179.]

UNITED STATES LEGATION, JAPAN,
Токей, January 29, 1875. (Received February 27.)

SIR: On the 23d instant there appeared in the Japan Mail, published in Yokohama, a translation of the "Address of Okuma Shigenobu, as president of the Formosan commission, to His Majesty," the Emperor of Japan, a copy of which is herewith inclosed. (Inclosure 1.)

This address is so extraordinary in some of its statements that the diplomatic representatives of the foreign powers accredited to His Majesty's government deemed it proper to hold a general consultation, with a view to determine what action, if any, should be taken by them to correct the erroneous statement made in the address touching their official action in the matter of the Formosan expedition. This consultation was held yesterday at the British legation, all the foreign representatives being present except the Austro Hungarian minister, who is absent. The representatives present agreed that the written statement herewith inclosed (inclosure 2) should be read to the Japanese minister for foreign affairs, to the end that the same, or the substance thereof, might be published by the authority of His Majesty's government in correction of the address of Mr. Okuma.

You will observe that it is not intended that this paper shall be published as the paper of the representatives of the foreign powers, but as the correction by the Japanese government of so much of the address as reflects unjustly upon the foreign ministers. This action was deemed judicious because, as you will doubtless notice, the address states that "after our (their) troops had started and were on their way, foreign public servants remonstrated." In the Japanese text as published, this statement refers expressly to the foreign representatives as the public servants who remonstrated. This statement is manifestly calculated, when read in connection with the context, to create the impression that the foreign ministers questioned the right of His Majesty's government to invade Formosa with His Majesty's ships and troops. There was nothing in my communications with this government, as you are already advised by my dispatches to the Department, which gives even colorable excuse for the statement of Mr. Okuma, and I am assured by my colleagues that the same may be said of the action of each of them. I did protest, as I deemed it my duty, against the employment by the Japanese government of ships and citizens of the United States in an armed and hostile expedition to Formosa, without the consent of China, and in violation of our treaty obligations to the government of that country. The statement of Mr. Okuma is all the more surprising when it is considered that this government approved my protest and accordingly issued an order detaching the American ship *New York* and the American citizens, Mr. Le Gendre, Captain Casell, and Mr. Wasson, from the Formosan expedition, days before any part of the expedition sailed from Nagasaki. I beg leave, in this connection, to refer generally to all my dispatches to the Department on the Formosan question, and especially to my dispatches Nos. 76* and 78*, dated respectively the 22d and 24th of April, 1874.

In view of the recent murder by a Japanese, of the acting German consul, Mr. Haber, on account of the supposed hostility of foreigners

* See Foreign Relations for 1874, pages 675 and 681.

to the policy of His Majesty, it seems somewhat remarkable that Mr. Okuma should have put into his "address to His Majesty," first, a complaint against the foreign ministers, to the effect that they opposed His Majesty's orders for the armed invasion of Formosa, and that he should have followed this with the further statement that "important interests were involved in the chastisement of the savages," and that he should have finally added, in concluding his address, the ambiguous words, "I humbly pray that His Majesty, the Tenno, will eagerly carry on the work, * * * and that he will not stop with the chastisement of the savages."

When this address was made all the Japanese forces had returned from Formosa, yet "the work" is to be carried on, and is not to stop with the chastisement of the savages or Formosans.

In view of the several statements in the address, it seems to me the public explanation asked for by the foreign ministers is due alike to them and to their respective governments.

Hoping that my action in the premises will accord with your judgment, and receive your approval,

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 2 in No. 179.—Translation.]

ADDRESS OF OKUMA SHIGENOBU, AS PRESIDENT OF THE FORMOSAN COMMISSION, TO HIS MAJESTY.

[From the "Japan Mail" of Seib, 23 January, 1875.]

NISSHIN SHINJISSEI, No. 10, January 15, 1875.

In the month of January, Shigenobu and others, in accordance with the confidential instructions they had received, laid before your Majesty a project for the chastisement of the savages. In April the Formosan commission (lit. board of affairs of the savage land of Formosa) was instituted, and Shigenobu was appointed its chief, to superintend all business belonging to it. In May the commander-in-chief, Saigo Yorimichi, departed to the land of the savages at the head of a force, exterminated the wicked, pardoned the submissive, and remained there a long time encamped. During the same month the minister plenipotentiary, Yanagiwara Sakimitsu, was dispatched to China, and in August the high commissioner plenipotentiary, Okubô Toshimichi, also was sent to the said country. Toshimichi and the others worked diligently and devotedly in the discharge of the important trust committed to them. In October, a convention was exchanged with the said country, and in November, Toshimichi and the rest reported the fulfillment of their mission. In December, Yoimichi returned in triumph. From the institution of the commission up to this date a period of eight months had elapsed. Hereupon the wrongs of the sufferers were for the first time redressed, the position of a subject *han* for the first time cleared up, security restored to the mariners of all countries for the first time, and the dignity and influence of the state consequently vindicated.

After our troops had started and were on the way, foreign public servants remonstrated. The Chinese government hastily dispatched an envoy, sent letters, and manifested a wide difference of opinion. Some persons, not comprehending the views of the government, began to doubt whether it was justified in the course which it was taking; others discussed the want of funds, and rumor became so noisy that the state was again imperilled.

Shigenobu and the others nevertheless accepted the responsibility, but day and night they were so busily employed that they feared lest their strength might be unequal to the task. Fortunately, the wise resolution of His Majesty the Tenno, never wavered, and the councils of the government became still more resolute. Great military preparations were made, and the mind of the people, both in the towns and in the country, learned to recognize the purpose of His Majesty. Some desired to cast away their lives and to die for the national cause; others offered to contribute toward the army expenditure. The civil and military officers united all their efforts, and the

great work of chastising the savages became an accomplished fact. We have nothing to be ashamed of before foreign nations concerning this measure, and its glory will not pale before the deeds done in ancient times.

If, while public rumor was clamorous, we had hesitated or drawn back, the injuries done to the sufferers would not have been redressed, the position of a dependent *kan* would not have been cleared up, the mariners of the world would never have known security, and a land of cannibals would have been established forever. Had such been the result, we should not only have been disgraced in the eyes of the world, but it would have been a sign that the dignity and influence of the state were about to fall prostrate. Consequently, important interests were involved in the chastisement of the savages.

I humbly pray that His Majesty the Tenno will eagerly carry on the work and carefully ponder; that by reflecting on the past he may be enabled to think out the policy of the future, so as to exalt his wise work to the highest pinnacle and glory, and that he will not stop with the chastisement of the savages.

Shigenobu reverently begs that the name of Formosan commission be now abolished, and himself relieved of the title of president, so that he may attend to the duties of his proper office. As for the collection of the documents of the commission and the audit of the accounts, this he hopes may be completed by the officials of the regular service in about a month, and a report can then be made, together with a detailed account of all that has been done since the institution of the commission.

[Inclosure 2 in No. 179.]

Written statement of the foreign ministers.

The address of the Japanese minister of finance to His Majesty the Tenno, on the subject of the Formosan expedition, contains a passage which is calculated to create an incorrect impression. The foreign ministers did not remonstrate against the dispatch of the Japanese troops to Formosa, but some of them protested against the employment by Japan of their ships and subjects or citizens until it was known whether such employment would or would not be regarded in a hostile light by China. Their treaty relations with China fully justified this course, and it must not be supposed that the foreign ministers remonstrated with the government of Japan against the employment of Japanese ships and troops.

No. 375.

Mr. Bingham to Mr. Fish.

No. 183.]

UNITED STATES LEGATION, JAPAN,
Tokei, February 9, 1875. (Received April 2.)

SIR: Referring to my dispatch of date 29th January last, (No. 179,)* in relation to the address of his excellency Okuma Shigenobu, sanji to His Majesty the Tenno, and to the demand made by the foreign representatives for the correction thereof, I have the honor to say that his excellency Mr. Okuma has made the correction as requested, by a publication in the official journal in which his original address appeared, to wit, the Tokio Nichi-Nichi Shimbun, (the Tokio Daily News,) under date the 3d instant, a translation of which, as published in the Japan Weekly Mail of date February 6, 1875, I herewith inclose.

I am, &c.,

JNO. A. BINGHAM.

*Ante.

[Inclosure in No. 183.—Translation.]

Mr. Okuma's correction of his address to His Majesty the Tenno, as published in the Japan Weekly Mail of February 6, 1875, and in the Japan Daily Herald of February 8, 1875.

[From the Japan Daily Herald of February 8, 1875.]

Translation from the Japan Mail.

From the Tokio Nichi-Nichi Shinbun, February 3.

My address to the Throne of the 4th instant contains the following passage:

“After our troops had started, and were on their way, foreign public servants* remonstrated.”

Your excellency having asked for an explanation of this passage, on the demand of the foreign representatives, it becomes necessary that I should state that the foreign representatives did not remonstrate against the dispatch of Japanese troops to Formosa, but some of them, stating that their treaty relations with China obliged them to take this course, protested against the employment by Japan, in the Formosan expedition, of their ships and subjects or citizens, until it was known whether such employment would or would not be regarded in a hostile light by China.

I humbly make this representation.

OKUMA SHIGENOBU SANJI,

To His Excellency SANJŌ,
Daijo Daijin.

No. 376.

Mr. Bingham to Mr. Fish.

No. 191.]

UNITED STATES LEGATION, JAPAN,
Tokai, February 17, 1875. (Received April 2.)

SIR: I have the honor to acquaint you with the fact, as appears by the official communications of the diplomatic representatives of England and France and his excellency the Japanese minister for foreign affairs, (copies of which, as published in the Japan Herald of date the 16th instant, are herewith inclosed; inclosures 1 and 2,) that those two powers have, of their own motion, concluded that “the time has now arrived when the small British and French force now in Yokohama should be withdrawn” * * *

Whatever may have led to this action, it seems to me to be a timely recognition of the capacity and the right of Japan to furnish the needful force to maintain the peace within her own territory. This withdrawal of the foreign land force may well be taken as some indication that the two powers named considered this action on their part to be called for in their own interests.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 191.]

British and French ministers to the minister for foreign affairs.

[From the “Japan Herald,” February 16, 1875.]

YEDO, January 27, 1875.

MONSIEUR LE MINISTRE: In conjunction with my colleague, the minister of France, I have the honor of informing your excellency that our governments consider that the

*The term used may also be translated “foreign ministers.”

time has now arrived when the small British and French force stationed at Yokohama should be withdrawn.

In making this communication we feel that we need not recur to the circumstances under which our governments found it necessary to send a force to Japan for the protection of their treaty-rights, and to continue such protection pending the re-establishment of order, and the constitution of a stable administration. The government of His Majesty the Tenno will doubtless remember that throughout a period of trouble and difficulty, inseparable from a revolution so remarkable as that which has occurred in Japan, the presence of this force has prevented the serious embarrassments which must have ensued if foreign life or property had been attacked before the restored government had succeeded in tranquillizing the country and in consolidating their authority. They will have seen that in proportion to the progress made in the attainment of these objects the allied force was gradually reduced, and they will now appreciate, we trust, the promptness with which the resolution of our governments to remove the remainder of that force has been taken on the termination of those difficulties which threatened, until toward the close of last year, to disturb the peace of Japan.

It affords our governments sincere satisfaction to be able to give His Majesty the Tenno this spontaneous proof of their good-will, and also of the confidence they repose in the power and the desire of His Majesty's government to insure due security to foreigners resident in Japan.

On our own part we have pleasure in observing that the task in which our troops have been engaged in this country has been performed in a manner which reflects honor upon themselves and upon Japan. We feel that the cordial relations which have been maintained between them and the Japanese officers and people throughout their stay, and the friendly services which they have mutually rendered each other, have materially contributed to the growth of good feeling between our respective nations.

I take this opportunity to renew to your excellency the assurance of my highest consideration.

His Excellency TERASHIMA MUNENORI,
ſc., ſc., ſc.

[Inclosure 2 No. 191.]

The minister for foreign affairs to the British and French ministers.

[From the, Japan Herald," February 16, 1875.]

FEBRUARY 7, 1875.

SIR: It has given me much pleasure to peruse the detailed explanation which you have given me in your dispatch of the 27th ultimo of the circumstances under which your government and that of France have now resolved to withdraw entirely the force hitherto stationed at Yokohama for the protection of the treaty-rights of the subjects of your two countries.

Owing to the unsettled condition of this country before the revolution, those troops were sent here for the protection of your country's subjects, but in consequence of the re-establishment of a national government by His Majesty the Tenno, and the increasing intimacy of our foreign relations, our nation, as actual experience has shown, has implicitly adhered to the policy of the government in these two respects. The time, therefore, has arrived when (your government and that of France) have resolved upon withdrawing your force altogether, a circumstance from which both our governments derive the highest satisfaction. I have no doubt that the cordiality of the relations between them will be still more enhanced by this measure.

I should also observe that it gives me much pleasure to recognize the good feeling which has marked the intercourse, with all classes of our people, of the troops which are now to be removed, during the period of their stay here.

I need scarcely say that it is the hope of this government to maintain on the same cordial footing the existing friendship between the subjects of our respective countries.

I have, &c.,

TERASHIMA MUNENORI,
Minister for Foreign Affairs.

No. 377.

Mr. Bingham to Mr. Fish.

No. 193.]

UNITED STATES LEGATION, JAPAN,
Токеи, February 22, 1875. (Received April 2, 1875.)

SIR: I have the honor to inclose herewith a report made by Thomas Hogg, esq., at the request of the government of Japan, upon the flora, &c., of a portion of the island of Yesso.

His excellency the minister for foreign affairs made request through me that Mr. Hogg should furnish a copy of his report for the agricultural department of Japan, which was accordingly done.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 193.]

Report of Mr. Thomas Hogg on the flora of Yesso and Nippon.

A hurried journey through a section of country, however limited, is insufficient to enable the investigator to give anything like a full description of its flora. As the area of country is enlarged, the difficulties of doing so are increased, and a residence of weeks or months, combined with frequent journeys, becomes necessary in order to describe, with even approximate completeness, its floral treasures. It is, therefore, impossible for me to more than take a hasty glance at the vegetation, as the results of a tour of a few weeks in those portions of the Empire of Japan indicated above.

Occasionally I shall take the liberty of departing, in a slight degree, from the direct subject of my report, to a consideration of the country with reference to its agricultural capabilities and productions, as suggested themselves to my mind during the journey.

The flora of the island of Yesso, though in some respects resembling that of high altitudes on the island of Nippon, still exhibits a marked difference, owing to its higher latitude, isolation, and narrower limits. Its peculiarity, in these respects, is apparent in the absence of many trees common throughout Nippon. On no portion of the route over which I traveled, with the exception of the immediate neighborhood of Hakodati, did I find growing, in a natural state, either cryptomerias, pines, retinospera, planera, or the wistaria. Those seen at Hakodati were probably grown from seed, or young trees brought from other districts. On the high hills, at the base of which Hakodati is situated, are found growing a species of telia, resembling, if not identical with *T. Europæa*, *Peyrus ancuparia*, (?) *Hydrangea paniculata*, *Berberis vulgaris*, and several species of *Enonymus*.

On the level plain northward are found *Wahlenbergia grandiflora*, *Aconitum Fischeri* (?); also found growing abundantly all over the island, *Lythrum virgatum* (?) and *Cimicifuga ramosa* (?).

Passing over the mountain-ridge toward Volcano Bay, on the road leading to the town of Mori, on its shores I first met with the elm and beech, plentifully distributed. A species of poplar is also common. It attains a larger size than other trees of the forest, which here are not generally of large growth, owing to the volcanic, thin, gravelly soil.

Crossing over Volcano Bay to Mororan, the first portion of the road leading over the mountain-spurs that terminate abruptly at the sea-side, the variety of forest-timber is increased by the addition of alder, birch, æsculus, and *Magnolia hypoleuca* in quantity. Descending the mountain-spurs the road runs close to the beach, and its course is almost devoid of arboreal growth. The most conspicuous plant to be seen is the beautiful *Gentiana pneumanthe* (?), with an occasional *Wahlenbergia grandiflora*. Both of these plants apparently find a more congenial home on the eastern than on the western side of the island, where I occasionally met with the first, but with the latter not once.

A short distance from Tamokomai the road turns toward the interior, passing over a flat country, swampy in places, and mostly covered with oak-trees of low growth, the soil being thin and poor. About five ris from the coast more elevated land was reached, and covered with somewhat larger timber. Some of the species seen on the mountains near the sea-coast here disappeared, and among others that took their place was the ash, more closely allied to the American than to the European species of that tree. Soon after leaving Chistosi, seven ris from the coast, the appearance of the coun-

try improved. Ascending a hundred or more feet, the plateau was of moderately good soil, and covered with oak timber. Approaching Shimamadzu, the soil lost its volcanic character and was apparently fertile, and continually improved all the way to Satsporo. Oak timber predominated on this richer land, and attained a good size.

My limited stay of four days at Satsporo, portions of which it rained, did not permit an extended investigation of the surrounding country. It presented, however, no features specially different over that which I had already passed. On the drier soil oak still prevailed, but along water-courses, with a moist soil, there was a dense growth of a variety of trees already enumerated, with undergrowth of dwarf bamboo and shrubs.

Beyond Satsporo, toward the Ishkara River, the country becomes lower and somewhat swampy. Oak disappears and elm takes its place. The nature of the soil in all this section of country is shown in the luxuriant crops of farm-produce within the inclosures of recent settlers.

Cereals had all been harvested, but later crops, as buckwheat, beans, &c., were prospering finely. Undoubtedly the country is capable of abundantly producing cereals, with the exception, perhaps, of maize, which, for its successful cultivation as a farm-crop, may require a warmer climate. Hemp of equally excellent quality, as cultivated elsewhere in Japan, there is every reason to expect would succeed.

Approaching Ishkara, at the mouth of the river of the same name, the soil becomes drier and the elm less plentiful, the maple and linden, with other trees, taking its place. From Ishkara southward, toward Otaranai, along the sandy beach, the vegetation exhibits no remarkable peculiarities. The lower part of the plain, extending from Satsporo to the sea, is a dense growth of scrub or dwarf oak. Immediately bordering the sea the sandy hillocks are covered with *rosa rugosa*, which is also plentiful on the gravelly soils near Volcano Bay. Its large, fragrant flowers, succeeded by its bright-colored fruit, has rendered it one of the most highly-prized Japanese plants introduced abroad.

Crossing the mountains from Yoichi to Iwanai, in these higher regions, in addition to the catalogue of deciduous trees, we find several species of abies, or spruce. The most plentiful is *Abies pichta* (?), found also throughout Siberia. Besides these, of lesser growth, among deciduous shrubs, are found *Sophora japonica* and *Styrax obassia*, one of the most elegant shrubs in all Japan. *Cercidophyllum japonicum*, a tree of the largest growth, and peculiar to Japan, attains here its greatest size.

The road from Iwanai to Kuromats does not differ in its general character from other portions of the road from Ishkara. Wherever mountain-streams enter into the Japan Sea there are valleys of alluvial soil expanding in width as they approach the coast. They are susceptible of easy cultivation and of supporting a large population, but at the present time are simple wastes.

The road from Kuromats to Oishmambe, at the head of Volcano Bay, has also the same general features as that from Yoichi to Iwanai. The rugged mountains are covered with the same varieties of trees, and the valleys between them are in places rendered almost impassable by dense thickets of a species of bamboo. The valley extending back from Oishmambe into the interior is equally fertile with those on the west coast, and as equally undeveloped. From Oishmambe to Mori the road follows the shore of the bay, and is comparatively uninteresting in a botanical point of view, within the range of this report, to that passing through the interior of the island.

Before leaving the island of Yesso I cannot refrain from again referring to its agricultural resources. The efforts of the government toward developing them are worthy of praise. Much remains to be done, and the fields of action are even closer at hand than at Satsporo. In the immediate neighborhood of Hakodati, the experimental farm cannot but have in time a good influence in improving the modes of cultivation as at present conducted there. The introduction of nutritious grasses for pasture or hay for horses and cattle is to be desired in place of the coarse weeds that are gathered to serve the same purpose, and in a very insufficient manner. The planting of a larger variety of hard timber, useful for purposes of utility, to take the place of inferior woods, in districts not well fitted for the cultivation of crops, would, in course of time, be an additional source of wealth to the country.

At Awomori, on the island of Nippon, we find at once trees peculiar to the island, to which I have already referred as being absent in Yesso, and indicate the milder climate of Nippon. Proceeding farther southward, the change is still more apparent in the growth of various species of *laurus*, *osmanthus*, *camellia*, and ivy; also the pomegranate and *lagerstroemia* found frequently in the neighborhood of dwellings.

THOS. HOGG.

No. 378.

Mr. Fish to Mr. Bingham.

No. 133.]

DEPARTMENT OF STATE,
Washington, April 9, 1875.

SIR: I transmit herewith a printed copy of "An act supplementary to the acts in relation to immigration," approved March 3, 1875,* which I will thank you to communicate to the Japanese government for its information. Copies thereof have been sent to the consul-general of the United States at Kanagawa, with instructions to communicate the same to the several consular officers within this jurisdiction.

I am, &c.,

HAMILTON FISH.

No. 379.

Mr. Bingham to Mr. Fish.

No. 217.]

LEGATION OF THE UNITED STATES,
Tokei, Japan, April 17, 1875. (Received May 25.)

SIR: Referring to your instruction No. 115, of date January 7, 1875, I have the honor to acquaint you that in accordance therewith I addressed to Thomas B. Van Buren, esq., United States consul-general, a communication, of date March 27, 1875, embracing the several matters of inquiry upon which information is desired by the Department, a copy of which communication is herewith inclosed, (inclosure 1.)

I regret to state that no reply to my dispatch above named has yet reached me from the consul-general or from either of our consuls in Japan. I have deemed it proper to make some further inquiry of the British minister in relation to the powers of British consuls in Japan, and infer from what he said to me verbally that the British minister in Japan has general powers to legislate over British subjects in Japan, by virtue of the orders in council of the British government.

At my request, Sir Harry Parkes has very kindly furnished me for perusal a printed copy of the Queen's order in council, made the 9th day of March, 1865, in which it is declared that this "order may be cited as the China and Japan order in council, 1865," and that Her Majesty makes the order by virtue of the powers conferred by an act of Parliament passed in the session of the sixth and seventh years of Her Majesty's reign, (chap. 80,) entitled "An act for the better government of Her Majesty's subjects resorting to China," and also of the foreign-jurisdiction act, passed in the same session, (chap. 94,) to remove doubts as to the exercise of powers and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual.

These acts of Parliament are not before me, but I have no doubt you will readily find them by reference to the English acts of Parliament of the session of the 6th and 7th Victoria, chaps. 80 and 94.

By referring to this order in council, it appears that the provisions thereof are made to apply to all British subjects in Japan, and also certain provisions thereof to the subjects of China and Japan, and also to the subjects and citizens of any state other than China and Japan resident therein. The order further provides that all Her Majesty's judi-

* See Statutes at Large, vol. 18, part 3, p. 477.

cial jurisdiction in Japan over British subjects or property therein shall be exercised in accordance with the order, and not otherwise, and, as far as circumstances admit, in conformity with the common law, the rules of equity, the statute law and other law for the time being in force in and for England, and with the powers vested in and according to the course of procedure and practice observed by and before courts of justice and justices of the peace in England, according to their respective jurisdiction and authorities.

It is especially to be observed that by the 6th paragraph of this order it is provided that offenses are to be deemed crimes, and punishable as such in Japan, when committed therein by British subjects, only in so far as the act is made criminal by the order in council or by rule or regulation made under it, it being expressly declared that any other act than an act that would, by a court or justice having criminal jurisdiction in England, be deemed a crime subject to punishment in England, shall not, in the exercise of criminal jurisdiction under this order, be deemed a crime or offense making the person doing such act liable to punishment.

The order then provides for courts of justice in China and Japan. It also defines the jurisdiction and authority of the several British courts in Japan and China. It provides also for jury-trial. It also contains specific provisions (paragraph 81) making it a misdemeanor for British subjects to participate or take part in any operation of war, insurrection, or rebellion against China or Japan, or to aid or abet any person in carrying on war, insurrection, or rebellion against either, while the said powers are at peace with England. The order further provides (paragraphs 85 to 90, inclusive) that Her Majesty's minister in China or Japan may, from time to time, make such regulations as seem fit for the peace, order, and good government of British subjects resident in or resorting to either of said countries, and for the observance of the stipulations of treaties between Her Majesty and the said powers, and may make any such regulation apply either throughout China or Japan, or to some one or more of the consular districts, provided, however, the same shall not take effect until approved by one of Her Majesty's principal secretaries of state, save that in cases of urgency declared in any such regulation, the same shall have effect until disapproval by Her Majesty and until notice of such disapproval shall have been received by the minister.

I have to observe that by paragraph 86 of this order the penalties for violating such regulations are restricted as follows, namely :

For each offense against the same, imprisonment for any term not exceeding three months, with or without hard labor, and with or without a fine not exceeding five hundred dollars, or a fine not exceeding five hundred dollars without imprisonment, and with or without further fines for continuing offenses, not exceeding in any case twenty-five dollars for each day during which the offense continues after the original fine is incurred, but so that all such regulations be so framed as to allow in every case of part only of the maximum penalty being inflicted.

Paragraph 87 provides for the printing and publishing of such regulations ; and 88, that the penalties thereof shall not be enforced until after publication as prescribed. Paragraph 91 provides for a summary hearing of all offenses against treaty, or regulation for the observance of treaty-stipulations, when the proceeding is before a provincial court and without assessors.

The order in council defines certain crimes and offenses, and the penalties thereof, when committed by British subjects, either in Japan or China, or in the seas adjacent thereto and within one hundred miles

thereof, or within any strait or other water in Japan. Without pursuing this order further, it is proper to call attention to the fact that the power to make regulations to have the effect of law is restricted to the diplomatic representatives of England in China and Japan.

The consuls of England do not seem to be intrusted with any such power, nor, so far as I can learn, is such power conferred in Japan upon the consuls of any of the treaty-powers, save the treaty-power to make commercial port-regulations by agreement with the local Japanese authorities, to which I had the honor to invite the attention of the Department in my dispatch No. 65, of date March 7, 1874, (Foreign Relations of the United States for 1874, pp. 671-674.) I infer from my conversation with the representatives of the other foreign powers that the diplomatic representative of England alone of all the treaty-powers is authorized to enact penal laws in Japan.

Sir Harry Parkes is temporarily absent, but upon his return I shall endeavor to obtain a printed copy of the orders in council above mentioned, and also of the regulations from time to time made by him under the authority of the same, which being obtained, I will transmit to the Department.

I shall also communicate to the Department, as soon as received, the replies of the several consuls to the inquiries contained in my dispatch addressed to Consul-General Van Buren, and herewith inclosed.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 217.]

Mr. Bingham to Mr. Van Buren.

No. 153.]

UNITED STATES LEGATION,
Tokai, March 27, 1875.

SIR: Referring to your dispatch No. 598, of date the 3d instant, in which you inquire whether you possess the power, as consul-general of the United States, so far as our countrymen resident in Yokohama are concerned, to prohibit the use of other materials than tiles or metal in the roofs of houses, and whether I have authority to confer such power upon you, I have to say that it is my opinion that you do not possess any such power, and that I have no authority to confer it.

It seems to me that your inquiry is covered by my communication to you, No. 121, of the 30th November last, to the effect that no authority is conferred either upon the United States minister or the United States consuls in Japan to enact laws for the government of American citizens in this empire by which they will be subjected to new obligations or new liabilities of any kind.

As I desire to communicate to the Department upon this general subject, I will thank you to make inquiry and inform me to what extent any of the consuls in Yokohama have imposed new obligations by laws of their own enactment upon their countrymen in Japan, and what authority or power they claim to be possessed of in that behalf.

Under the instructions of the Department, I especially inquire what powers, if any, are claimed by the respective consular boards in Japan, and especially by the consular board at Kanagawa, to make laws or regulations having the force of law in reference to licenses, and whether this power is claimed by the consuls severally to have been conferred by their respective governments, and what is the form of their authority.

I am also instructed to inquire upon what authority the general police and municipal regulations of Yokohama and of the other open ports in Japan are adopted and made binding, and what difference, if any, obtains in the municipal regulations of the several open ports. I will also thank you to furnish me full information upon this subject as to Yokohama, and to request full information from our several consuls in Japan and to communicate the same to me.

All the information asked herein is desired at as early a day as possible.

I am, sir, your obedient servant,

JNO. A. BINGHAM.

General THOS. B. VAN BUREN,
United States Consul-General, Yokohama.

No. 380.

Mr. Bingham to Mr. Fish.

No. 219.]

UNITED STATES LEGATION, JAPAN,
Tokai, April 20, 1875. (Received May 25.)

SIR: It is to be noted that on the 14th instant Sanjo Saneyoshi, prime minister of Japan, caused to be published an imperial decree, a translation of which appeared in the "Japan Weekly Mail" of the 17th instant, and a copy of which I have the honor to inclose herewith for the information of the Department.

It is not my purpose to criticise very closely this decree, and perhaps it is not proper that I should do so, but it is certainly a subject of congratulation that His Imperial Majesty the Emperor states in this decree that his oath requires him "to govern in harmony with public opinion, and to protect the rights of our (his) people." This, though possibly not so clearly stated as might be desirable, seems to be, in some sense, a recognition of the great principle dear to freemen, and formidable to tyrants only, that it is the first duty of a government to protect the rights of the governed. It is to be hoped that His Majesty means by "the rights of the people" the rights of human nature common to all men, whatever their station in life.

No information has been furnished which enables me to specify the "five principles" referred to in this decree; but whatever they may be, it has pleased His Majesty to declare his purpose to exceed them in the prosecution of domestic reforms. To this end, His Majesty declares that he now establishes the "Geuro-in" to enact laws for the Empire, and the "Dai-shin-in" to reform and consolidate the judicial authority.

I have not been furnished with an official copy of the original text of this decree, but whenever it shall have reached me it will be carefully translated by the interpreter of this legation, and a copy furnished to the Department.

The policy of the Emperor, so obscurely expressed in this translation, seems, in his judgment, to involve an abandonment by the people of many of their former customs. But it is to be observed that the Emperor, apprehensive that the people may be too eager for reforms in society and government, expresses the wish that they shall not act impulsively or hastily in the matter.

It is said that this decree is made in response to the demands of the people.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 219.—Translation.]

NOTIFICATION, No. 58.

[From the "Japan Weekly Mail," April 17, 1875.]

An edict having been made in the terms of the annexed decree, I hereby make this known.

SANJO SANEYOSHI,
Prime Minister.

APRIL 14, 1875.

Imperial decree.

On ascending the imperial throne we assembled the nobles and high officials of our realm, and took oath before the gods to maintain the five principles, to govern in harmony with public opinion, and to protect the rights of our people.

Assisted by the sacred memory of the glorious line of our holy ancestors, and by the union of our subjects, we have attained a slight measure of peace and tranquillity.

So short a time, however, has elapsed since the late restoration that many essential reforms still remain to be effected in the administration of the affairs of the empire.

It is our desire not to restrict ourselves to the maintenance of the five principles which we swore to preserve, but to go still further, and enlarge the circle of domestic reforms.

With this view, we now establish the Genro-in to enact laws for the empire, and the Dai-shin-in to consolidate the judicial authority of the courts. By also assembling representatives from the various provinces of the empire, the public mind will best be known and the public interest best consulted, and in this manner the wisest system of administration will be determined.

We hope by these means to secure the happiness of our subjects and our own. And while they must necessarily abandon many of their former customs, yet must they not, on the other hand, yield too impulsively to a rash desire for reform.

We desire to make you acquainted with our wishes, and to obtain your hearty co-operation in giving effect to them.

No. 381.

Mr. Bingham to Mr. Fish.

No. 220.]

UNITED STATES LEGATION, JAPAN,
Токеи, April 21, 1875. (Received May 25.)

SIR: General Horace Capron, a citizen of the United States, having been for some years in the service of His Imperial Japanese Majesty's government in the capacity of commissioner and adviser of the kaitakushi, (or agricultural department,) and being about to return to the United States, was invited to audience by the Emperor at the imperial palace on the 10th instant, on which occasion the Emperor addressed the general, expressing the high appreciation by His Majesty of the valuable service rendered by the general, &c., and received from General Capron an appropriate reply. I have the honor to inclose herewith the address made by His Majesty, together with the reply thereto of General Capron. (Inclosure No. 1.)

It is not to be questioned that the work of opening the island of Yesso, so wisely inaugurated under the direction and advice of General Capron, if prosecuted in accordance with the methods adopted under his advice, will greatly promote the material interests of this people, and, in the words of His Majesty, "advance the happiness of the empire."

I have the honor to also inclose copies of the correspondence between His Excellency Governor Kuroda, the head of the agricultural department of Japan, and General Capron. (Inclosures 2 and 3.)

It is a pleasure to record these acknowledgments of the great and faithful service rendered by an American citizen to this empire.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 220.]

GENERAL CAPRON'S AUDIENCE WITH THE EMPEROR.

[From the "Japan Weekly Mail," April 13, 1875.]

YOKOHAMA, *Tuesday, April 13, 1875.*

At an audience of His Majesty Mikado with which General Capron was honored last week, His Majesty addressed him as follows:

"Since your engagement with the kaitakushi, intrusted as you have been with the work for the settlement and development of the island of Hakaïdo, you have so assiduously and faithfully executed your responsible duties and advised the chokuan that the important work of the department has been successfully carried out, and is daily progressing to our satisfaction. Indeed, your services were valuable, and deserve our high appreciation, and it is hardly a matter of doubt that the future progress of that island, the fruit of your labor, will much advance the happiness of my whole empire.

"Now, on your return to your country, on the termination of your engagement, I have to acknowledge your valuable services, and wish to express my good wishes for your future prosperity and happiness."

General Capron replied: "I am deeply grateful for the kind words your Majesty has spoken, and I take great pleasure in the opportunity of personally thanking your Majesty for them, and for the many other kindnesses extended to me by your Majesty's government.

"The reception which your Majesty was graciously pleased to extend to me upon my arrival in this empire, and this additional mark of your Majesty's kindness, will always be a source of profound gratification to me.

"I beg especially to express my deep sense of satisfaction at your Majesty's allusion to my services. It is a matter of congratulation to me that the work in which I have had the privilege of assisting has been deemed worthy of your Majesty's appreciation, and it is my earnest desire that as time progresses, and all difficulties incident to the beginning of so great an undertaking have been overcome, it may still further merit your Majesty's regard.

"I earnestly hope that your Majesty may continue long in health, prosperity, and happiness."

[Inclosure 2 in No. 220.—Translation.]

Governor Kuroda to General Capron.

General HORACE CAPRON:

DEAR SIR: Upon your departure upon the expiration of your engagement with this government in a position which you have for years so worthily occupied as commissioner and adviser to this department, permit me to summarize the benefits we have derived from your services:

In the early days of our work you have carefully examined the influences of climate and the capabilities of the soil of the island of Yesso, and submitted very matured plans of operations for its development. Such works, consequently, as far as circumstances would permit, have been carried out, and their results are gradually being realized; the system of transportation much improved by new roads upon the land and steamships on the sea; the profitable undertaking of farming; examples in breeding and rearing of foreign stock; the collection of foreign fruits, grains, and vegetables; while much valuable machinery and labor-saving machinery and tools have been successfully introduced into the country; geological, mineralogical, and land surveys inaugurated and greatly progressed in, so that our industries are largely augmented.

These improvements so much advance our progress that we anticipate a prosperous future for the island; and the final success of our project is, we fully believe, attributable to your efforts, and I beg, as a proof of our high appreciation of your valuable services, and also as a memento of our friendly sentiments, to present the articles accompanying this letter, which you will please accept.

KURODA KIYETAKI,
Kaitaku Chokuan.

15TH DAY OF 4TH MONTH, ANNO 8TH MEIJI, (*April 15, 1875.*)

[Inclosure 3 in No. 220.]

General Capron to Governor Kuroda.

KAITAKUSHI, TOKIO, *April 16, 1875.*

DEAR SIR: I have the honor to acknowledge the receipt of your excellency's communication of the 15th instant, with the accompanying articles enumerated in your memorandum, which you are so kind to say are presented to me as a memento of our friendly intercourse during the time of my engagement as the commissioner and adviser of this department of the national government.

It would be an affectation on my part to attempt to disguise the deep sensations which your letter and presents have produced in me, more particularly the flattering manner in which you have spoken of my past services and the benefits which you claim to have been the results of my labors.

I can conceive of no greater honors than have been conferred upon me, both by His Imperial Majesty and your excellency, in this direction, and I assure you that I shall bear back with me to my children and to my Government, with the proudest satisfaction, these evidences of faithful services rendered as one of the pioneers in this work of progress in this nation, which is most anxiously watched by every American citizen.

HORACE CAPRON,

Commissioner and Adviser of the Kaitakushi.

His Excellency KURODA KIYETAKI, *Kaitaku Chokuan.*

No. 382.

Mr. Bingham to Mr. Fish.

No. 226.]

UNITED STATES LEGATION, JAPAN,
Токеи, May 15, 1875. (Received June 17.)

SIR: It has pleased His Majesty the Emperor of Japan to order his ministers to issue to the defenders of His Majesty's empire badges of merit.

I have the honor to inclose herewith a translation of this imperial order made by Mr. Thompson.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 226.—Translation.]

Description of badges of merit and of military service.

It is the opinion of His Majesty that all who have displayed merit in the service of the country ought to be rewarded; therefore, he establishes the following regulations respecting the bestowment of the insignia of merit, wishing to make known his high regard for the same.

You, his ministers, aim to realize his purpose.
Second month of eighth year of Meiji.

THE BADGES OF MERIT.

The grades of merit are degrees instituted for the purpose of rewarding meritorious and courageous persons, and being different from official rank or degree, the badges of such degrees may be worn.

The grades of merit are divided into eight classes, viz:

1. First-class merit.—One belonging to this class receives a first-class badge.
2. Second-class merit.—One belonging to this class receives a second-class badge.
3. Third-class merit.—One belonging to this class receives a third-class badge.
4. Fourth-class merit.—One belonging to this class receives a fourth-class badge.
5. Fifth-class merit.—One belonging to this class receives a fifth-class badge.
6. Sixth-class merit.—One belonging to this class receives a sixth-class badge.
7. Seventh-class merit.—One belonging to this class receives a seventh-class badge.
8. Eighth-class merit.—One belonging to this class receives an eighth-class badge.

BADGES OF MILITARY SERVICE.

These are bestowed, without consideration, or asking whether the receiver is an officer or common soldier, and without regard to his courage, as a sign that the receiver has seen military service. They are bestowed after returning from a campaign.

The rewards both of merit and of military service terminate with the receiver; his children will not be permitted to enjoy them.

MANNER OF WEARING THE BADGES.

Only persons belonging to the first class will be allowed to wear two badges. From the second class downward the rule is for the wearer to wear only one badge. For example: When one who wears a third-class badge is promoted to the second class, he will lay aside the third-class badge and wear only the badge of the second class. These badges are to be worn only on dresses of ceremony, (court-dresses.) On ordinary dress a ribbon may be worn on the left breast as a substitute.

The badges of the first class are to be worn suspended by a wide ribbon from the right shoulder to the left side.

Badges of the second class are to be worn without a ribbon, fastened with a pin on the right breast.

Badges of the third class are to be worn on the breast suspended by a ribbon around the neck.

Badges of the fourth class and downward, and also badges of military service, are to be worn on the left breast.

| Star or medal. | Connecting-knob or flower. | Ring. | Ribbon. |
|--|---|---|----------------|
| FIRST CLASS. | | | |
| Gold, 2½ inches in diameter; sun red; rays white, incased in gold. | Gold, kiri-tree; flower (7 and 5) purple; leaf green, incased. | Gold, round.. | 4 inches wide. |
| SECOND CLASS. | | | |
| Gold and silver, 3 inches in diameter; sun red; rays white and double; gold casing. | No connecting-knob or flowers. | No ring, but pinned on with a silver pin. | No ribbon. |
| THIRD CLASS. | | | |
| Gold, 1.8 inches in diameter; sun red, incased; rays white, incased. | Gold, kiri, (5 and 7;) flower purple, incased; leaf green, incased. | Gold, oblong.. | 1 inch wide. |
| FOURTH CLASS. | | | |
| Gold, 1½ inches in diameter; sun red, incased; rays white, incased. | Gold, kiri, (5 and 7;) flower purple, incased; green leaf, incased. | Gold, round... | 1 inch wide. |
| FIFTH CLASS. | | | |
| Gold and silver, 1½ inches in diameter; sun red, incased; rays white, incased. | Gold, kiri, (5 and 3;) flower purple, incased; leaf green, incased. | Gold, round... | 1 inch wide. |
| SIXTH CLASS. | | | |
| Silver, 1½ inches in diameter; sun red, incased; rays white, incased. | Silver, kiri, (5 and 3;) flower purple, incased; leaf green, incased. | Silver, round | 1 inch wide. |
| SEVENTH CLASS. | | | |
| Silver; leaf and flower of the kiri-tree, (<i>Elaeococca sinensis</i> ;) 1 inch in diameter; flower (3 and 5) purple, incased; leaf green, incased. | No star or connecting-link.. | Silver, round | 1 inch wide. |
| EIGHTH CLASS. | | | |
| Silver, leaf and flower of the kiri, 1 inch in diameter; flower (3 and 5) silver; leaf silver. | No star or connecting-link.. | Silver, round | 1 inch wide. |
| OF MILITARY SERVICE. | | | |
| Silver, round wreath of kiri-leaves ... | Silver..... | No ring..... | 1 inch wide. |

No. 383.

Mr. Bingham to Mr. Fish.

No. 228.]

UNITED STATES LEGATION, JAPAN,

Tokai, May 20, 1875. (Received June 17.)

SIR: I have the honor, in compliance with your instruction No. 115, of 7th January last, to inclose herewith a copy of my dispatch to Consul-

General Van Buren, on the subject of my inquiry, made in obedience to your instruction, (inclosure 1,) and also copies of the several answers thereto transmitted by him to me, as per inclosures 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, respectively. With the exception of the consuls of Germany and the Netherlands, it does not seem that the consuls in Japan have any authority to make local regulations having the force of law or to issue licenses in the open ports.

You will observe the convention, so called, (inclosure 11,) is a clear recognition, by the foreign representatives who signed it, that the power to make municipal regulations for the foreign settlements in Japan is within the authority of the Japanese government; hence they petition that government to adopt the municipal regulations for Yokohama by them recommended.

The Nagasaki regulations (inclosure 8) seem to me to have been agreed upon without the authority of law.

I submit the several inclosures as the fullest replies to the several inquiries made in your instruction which I have been able to obtain.

It seems to me that the local municipal and police regulations in the several open ports should be made by the authority of the Japanese government, and the violations thereof by the subjects or citizens of the treaty-powers should be punished by the consuls severally of those powers, in accordance with the laws of their respective governments. To confer the legislative power upon the several consuls for such local government might lead to some conflict of opinion among them. It is not, to my mind, clear that Congress could delegate legislative power either to our consuls or diplomatic representatives, while it is not to be doubted that Congress has the power to pass all necessary and proper laws to carry into effect our treaty with Japan, and, to that end, to authorize the trial of our citizens before American consular courts in Japan for every infraction by them, in Japan, of the treaty, of our statutes, or of the laws of Japan not inconsistent with our laws or with the rights guaranteed by treaty.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 222.]

Mr. Bingham to Mr. Van Buren.

No. 153.]

UNITED STATES LEGATION,
Tokai, March 27, 1875.

SIR: Referring to your dispatch No. 598, of date the 3d instant, in which you inquire whether you possess the power, as consul-general of the United States, so far as our countrymen resident in Yokohama are concerned, to prohibit the use of other material than tiles or metal in the roofs of houses, and whether I have authority to confer such power upon you, I have to say that it is my opinion that you do not possess any such power, and that I have no authority to confer it.

It seems to me that your inquiry is covered by my communication to you, No. 121, of the 30th November last, to the effect that no authority is conferred either upon the United States minister or the United States consuls in Japan to enact laws for the government of American citizens in this empire, by which they will be subjected to new obligations or new liabilities of any kind. As I desire to communicate to the Department upon this general subject, I will thank you to make inquiry and inform me to what extent any of the consuls in Yokohama have imposed new obligations by laws of their own enactment upon their countrymen resident in Japan, and what power they claim to be possessed of in that behalf.

Under the instructions of the Department, I inquire especially what powers, if any, are claimed by the respective consular boards in Japan, and especially by the consular

board at Kanagawa, to make laws, or regulations having the force of law, in reference to licenses, and whether this power is claimed by the consuls separately to have been conferred by their respective governments, and what is the form of their authority. I am also instructed to inquire upon what authority the general police and municipal regulations of Yokohama and the other open ports in Japan are adopted and made binding, and what difference, if any, obtains in the municipal regulations of the several open ports.

I will also thank you to furnish me with full information upon this subject as to Yokohama, and to request full information from our several consuls, and to communicate the same to me. All the information is desired at as early a day as possible.

I am, &c.,

JNO. A. BINGHAM.

General THOMAS B. VAN BUREN,
United States Consul-General, Kanagawa.

[Inclosure 2 in No. 228.]

Mr. Van Buren to Mr. Bingham.

No. 812.]

UNITED STATES CONSULATE-GENERAL,
Kanagawa, (Yokohama,) Japan, May 11, 1875.

SIR: I have the honor to acknowledge receipt of your dispatch No. 153, under date 27th March last, requesting to be informed to what extent consuls in Yokohama have imposed new regulations by laws of their own enactment upon their countrymen in Japan, and especially by the consular board at Yokohama, to make laws, or regulations having the force of law, in reference to licenses, and whether this power is claimed by the consuls severally to have been conferred by their respective governments, and what is the form of their authority.

Immediately upon its receipt, I addressed communications upon the subject to the different consuls at Yokohama and the United States consuls at the other treaty-ports, and I inclose you herewith copies of such replies as have been received.

You will perceive that there is no system or code recognized by the consuls, even of the same nation, at the different ports, each apparently acting upon his own interpretation of his powers.

At Kanagawa (Yokohama) the diversity of views and claims among the consuls is so great as to make it utterly impracticable to agree upon anything like a common platform.

I inclose you a printed paper headed "convention," and dated at Yedo, October 28, 1867, which appears to consist of seven different articles, recommended by the ministers of France, Great Britain, the United States, Germany, and the Netherlands, whose names are signed thereto, to the Japanese government, "as essential to insure the maintenance of order and health within the foreign settlement of Yokohama."

These articles, I am informed, were ratified by the Japanese government, and Mr. E. S. Benson, an American citizen, was afterwards duly elected by the ballots of the foreigners in Yokohama "municipal director," and has since continued in the position, exercising the powers conferred by the said convention.

By common consent the consuls issued licenses to certain of their countrymen to sell liquors at retail in the settlement, charging and collecting from each person so licensed the sum of \$12 per month, which sum was paid over to the municipal director, to be used to defray the expenses of the foreign members of the police-force.

For a while this proceeding appeared to work well; but upon certain parties refusing to pay the license-fees, the consuls declined to enforce their collection, admitting their want of power in the premises, and the scheme fell to the ground. At present no licenses are issued. I have proposed to the board of consuls to recommend to the Japanese authorities the enactment of a law or ordinance regulating the licensing of dram-shops, leaving to the different consuls the enforcement of its provisions in their own way; but the proposition has met with no support, the consuls claiming that their countrymen cannot be compelled to submit to Japanese laws.

In the absence of any law upon the subject, I think that I should feel justified, as a police and sanitary measure, in regulating the sale of intoxicating liquors in this settlement, and would not hesitate to do so as regards our countrymen here, until otherwise ordered by my Government, if the other consuls would do likewise with their people.

As it is, we are living here in all respects in an anomalous condition, without definite laws or powers, and apparently without any legal relative duties or obligations.

Upon my application, a few months since, to the British consul, for the arrest of a British subject charged with having assisted in the escape of two notorious criminals

from the jail of this consulate, I was informed, among other things, that English law provided no punishment in such case, because the jail was not British; and on a later occasion I was refused a subpoena for a British subject to appear as a witness in a legal proceeding pending in my court.

The police-force in Yokohama is composed of natives and a few foreigners. The inspector is a Japanese, and all are under the control of the governor of this ken, and are paid by the Japanese government. Arrests are made as by the police of the cities of Europe and America, but the arrested party, if a foreigner, is brought before the consul of his country for trial and sentence.

I have had occasion of late to protest against the arrest of citizens of the United States by members of the police, in cases where I considered it proper that a complaint should have been filed at this consulate, and the accused arrested by warrant under my hand and official seal; and I have claimed that their right to arrest an United States citizen without such warrant was confined to an offense committed in their presence, or for a felony or breach of the peace, when the pursuit or capture occurred immediately after its commission.

I am, sir, your obedient servant,

THOS. B. VAN BUREN,
United States Consul-General.

Hon. JOHN A. BINGHAM,
United States Minister, &c.

[Inclosure 3 in No. 223.]

Mr. Van Oordt to Mr. Van Buren.

YOKOHAMA, April 6, 1875.

SIR: In reply to your circular requesting to inform you what course is pursued in this consulate in regard to several points, I beg to say the following:

Concerning new obligations to be imposed upon my countrymen in Japan, these I would not make unless with the concurrence of my other colleagues, and provided they are not at variance with Dutch law.

I have no authority to grant licenses for the sale of liquors, as, according to Dutch law, the sale of these articles is free from taxation.

With regard to the last paragraph in your letter, I must give the same answer as I have given to the first.

I have the honor to be, sir, your most obedient servant,

W. C. VAN OORDT,
Acting Consul for the Netherlands.

General T. B. VAN BUREN, *U. S. Consul-General, Yokohama.*

[Inclosure 4 in No. 223.]

Mr. Gebauer to Mr. Van Buren.

CONSULATE OF GERMANY,
Yokohama, April 6, 1875.

SIR: In reply to your circular of the 1st instant, I have the honor to inform you—
1. That German subjects, living in Japan, are in the first place amenable to the law of the German Empire, and, furthermore, to the regulations stipulated by the treaties between Germany and Japan.

2. No municipal law being established at this port, the consul may, at the instance of the Japanese authorities, or by his own judgment, issue new regulations to his countrymen; but he is not allowed to put them into force without previously having applied for and obtained the sanction of the foreign office at Berlin.

3. No German subject can be prohibited by law from selling liquors or keeping a public house at this port, unless he should prove to protect disorderly demeanor.

I have the honor to be, sir, your most obedient servant,

GEBAUER.

T. B. VAN BUREN, Esq., *U. S. Consul-General, Kanagawa.*

[Inclosure 5 in No. 228.]

Mr. Turner to Mr. Van Buren.

No. 77.]

UNITED STATES CONSULATE AT HIOGO AND OSAKA, JAPAN,
Hiogo, April 13, 1875.

SIR: I have to acknowledge the receipt of your dispatch, No. 685, dated the 2d instant, making inquiry, at the request of the American minister, regarding the exercise of certain authority by the different consuls residing at Hiogo and Osaka. In reply, I would respectfully advise you that the British consul informs me that he claims the right "to make regulations having the force of law" in reference to licenses, &c., by the authority conferred upon all British consuls in Japan. (See art. 4 of a notification, dated April 4, 1862, published by Charles A. Winchester, H. B. M.'s chargé d'affaires and acting consul-general, and which reads as follows; "No British subject may establish within an open port in Japan either a boarding-house, eating-house, or other public house of entertainment, or a butcher's house or slaughtering-house, without the sanction of the consul and under such regulations as he may require.")

I inclose a copy of a letter from the acting German consul, to which is subjoined a translation of a law which apparently gives him the right to exercise a limited authority of the nature you describe.

The Belgian, Dutch, Hawaiian, Swiss, and American consuls claim no special privileges in this respect. The Portuguese and Danish consuls are, I regret, absent from Hiogo, and, in consequence, I am unable to give you any information as to the limitation of their privileges.

The consular board claim no especial privileges in this respect over individual consuls.

The general "police and municipal regulations" of Hiogo and Osaka are made by the municipal council of each settlement, and with the consent of the consuls, each of whom occupies a seat in both councils.

I am, sir, your obedient servant,

DANIEL TURNER,
U. S. Consul.

THOMAS B. VAN BUREN, Esq.,
United States Consul-General, Yokohama, Japan.

[Inclosure 6 in No. 228.]

Mr. Voigt to Mr. Turner.

No. 152.]

CONSULATE OF GERMANY,
Hiogo-Osaka, April 12, 1875.

SIR: In answer to your favor of to-day's date, I beg to reply that, according to section 17 of the laws of 29th June, 1865, which treats of the jurisdiction of consular courts for the German Empire, and from which I beg to subjoin an extract in translation for your guidance, every consul has the right to frame police-laws with binding force, and levy a fine in case of non-compliance. Under this head I think that the question of licenses would also stand, although this statute does not especially refer to this point.

There is no license for grog-shops in Hiogo, as far as I can find; an original proclamation, issued by the consular body in the early days of this settlement, levying a fine of \$12 per month, having been withdrawn afterward.

I am, your obedient servant,

OSCAR VOIGT,
Acting Consul.

DANIEL TURNER, Esq.,
United States Consul, Hiogo, Japan.

[Inclosure to inclosure 6 in No. 228.—Translation.]

Extract in regard to the jurisdiction of German consuls.

SECTION 17.

"Every consul has the right to issue police-rules, with binding power, for those persons who are under his jurisdiction, and to levy a fine not exceeding thalers 10 (\$7) in case of non-compliance.

"These rules have to be transmitted to the legation, or to the minister for foreign affairs. The envoy plenipotentiary, as well as the minister for foreign affairs, have the right to annul the police laws of the consular court."

[Inclosure 7 in No. 223.]

Mr. Mangum to Mr. Van Buren.

No. 24.]

UNITED STATES CONSULATE,
Nagasaki, April 14, 1875.

SIR: I have the honor to acknowledge the receipt, on the 12th instant, of your dispatch No. 686, informing me that by instructions of the American minister you were directed to inquire of me "what power, if any, is claimed by the consular board in Nagasaki, or by any of the consuls resident there, to make laws or regulations having the force of law in reference to licenses, or in any other directions, and whether such power is claimed to have been conferred by their respective governments, and what is the force of their authority," &c.

In reply, I have the honor to inclose herewith a copy of the "land regulations," which show the authority under which municipal matters are regulated here. The consuls whose ministers have not agreed to these regulations comply with them or not, according to their judgment.

I am, sir, your obedient servant,

WILLIE P. MANGUM,
*United States Consul.*General THOS. B. VAN BUREN,
United States Consul-General, Yokohama.

[Inclosure 8 in No. 223.]

LAND-REGULATIONS.

PORT OF NAGASAKI, IN JAPAN, *September, 1860.*I.—*Mode of acquiring land.*

Any person desiring to lease land within the location fixed upon for foreign renters must first apply to the consul or consular agent of his nation officially and in writing, or, if there be none appointed, to the consul of any friendly power, specifying, as nearly as can be ascertained, the locality and boundaries of the said land; and the said consul or consular agent will thereupon inquire of the land-officer and the other foreign consuls whether any impediment exists to its settlement by reason of previous negotiation or application by third parties, or otherwise, provided always that if such impediments do exist, then and in such case a reasonable time shall be allowed the first claimant to settle for the said land, and the failing to do so within such reasonable time shall be considered and held a virtual surrender of such prior right of settlement, and the same shall revert to the foreigner next applying on notice to that effect being given to his consul, and no good cause shown why it should not revert as aforesaid.

II.—*Allotments of land*

Will be made only to *bona-fide* residents; and renters of land will be required, under penalty of forfeiture of title-deed, to erect, within six months after date of title-deed, and in accordance with these regulations, buildings of a value of not less than—

On water lots, \$150 for each 100 tsuboo measurement.

On rearage lots, \$50 for each 100 tsuboo measurement.

III.—*Final settlement and title-deeds.*

The priority of the individual claimant having been determined as aforesaid, a note under the hand and seal of the consul will be furnished him for delivery to the land-officer, who will, without delay, proceed with him to measure the land in question. The measurement having been ascertained, the money for one year's rental will be immediately paid to the chief land-officer, who will give a receipt in triplicate, with translation, for the same, stating also the measurement and boundaries of the said land. Two copies of the said receipt will be handed by the renter to his consul, who will transmit one copy to the governor. The governor will forthwith issue a title-deed in triplicate in the form agreed upon and hereunto annexed, one copy to be archived by the governor, one copy by the consul, and one copy to be delivered to the renter. The governor will also notify the other consuls of the issue of such title-deed, specifying the measurement and boundaries of the land.

IV.—*Boundary-stones to be placed.*

When land is rented, a time shall be appointed, and stones, having the number of the lot distinctly cut thereon, to define the boundaries, will be fixed in the presence of an officer deputed by the consul, of the land-officer or his deputy, and of the renter, in such manner that they may not interfere with the lines of roads, or other boundaries, or in any other way give cause for litigation or dispute hereafter.

V.—*Streets, roads, sewers, and jetties.*

It is clearly understood and agreed to that land devoted to public use, as streets, roads, &c., is not included in the measurement of the rented lots, and is not to be infringed upon in any way.

In the acquirement of near lots of land, provision shall be made of the requisite extension or creation of streets, roads, and jetties.

The proprietorship of the soil being in the Japanese government, the streets, roads, and jetties will at all times be kept in thorough order, and sewers or drains will be made, when necessary, by the Japanese government, and no tax will be levied on renters in the foreign quarter for this purpose.

VI.—*Rent when payable.*

The annual rent payable to the Japanese government on all land rented within the foreign quarter will be payable in advance, on the tenth day of the twelfth Japanese month in each year.

The governor will address the several consuls ten days previous to the said date, stating when, where, and to whom the said rent must be paid, and the said consul will give notice to the renters. The officer appointed to receive the rent will give a receipt in triplicate, with translation, for the same, one copy of which shall be archived by the governor, one copy by the consuls, and one be delivered to the renter.

Should the renter neglect to pay the rent on the day fixed, the governor will acquaint the consul under whose jurisdiction the defaulter is, who will enforce immediate payment.

VII.—*Transfer of lots.*

The interest in a lot shall always be held in law and equity to reside in that person in whose name the title of record appears, and no title shall pass unless the deed is lodged for record within three days from the date of conveyance, but no lot can be transferred within one year after date of title-deed.

Within the said foreign quarter no Japanese shall erect new houses or sheds so near to the residence or place of business of foreigners as to endanger them in case of fire, and if he does, the governor will abate the nuisance.

No Japanese shall open a place of public entertainment within the said location without the unanimous consent of the consular authorities, under the penalties hereinafter provided against maintaining a nuisance.

VIII.—*Extent of lot, and usage to which applied.*

Straw sheds, bamboo or wooden houses, or buildings of inflammable kinds, shall not be erected in the settlement, nor shall any trade or profession be carried on within its limits dangerous to the safety of life or property, or obnoxious to the general health, under a penalty of \$25 for every twenty-four hours such nuisance shall remain unabated. Nor shall contraband goods or merchandise likely to endanger life or property, such as gunpowder, saltpeter, sulphur, large quantities of spirit, and such like, be stored in the premises of any individual, under a penalty of \$25, and \$25 for each twenty-four hours the nuisance shall remain. The place where such trades or professions may be carried on, or where such merchandise may be stored, must be sufficiently distant from other dwellings or warehouses to prevent all risk of damage or inconvenience, and be fixed upon by the authorities after consultation together.

The public roads must not be encroached upon or obstructed, as by scaffolding, for the purpose of building, or by building materials of any kind, beyond the time essential for the completion of the work, or in any such manner as shall at any time block up or materially interfere with the thoroughfares, or by projecting eaves of houses, or fences, or gates, or door-steps, or entrances, by the heaping up of goods for any length of time, and such like, under a penalty of \$10 for each twenty-four hours they shall remain after a notification by the Japanese or consular authorities to remove them. The public or individuals must not be inconvenienced by the accumulation of

filth in gutters or upon the roads, firing of guns, carelessly creating noise or disturbance, furious riding or driving, or leading horses up and down the chief thoroughfares for exercise, or by any act coming legitimately within the meaning of the term nuisance, under a penalty of \$10 on commission of either of said offenses.

All fines shall be recovered before the consul of the nation to which the offending party belongs, or if there be none in the port, then they may be recovered before the Japanese authorities, and shall be paid over to the committee appointed under clause 9 of these regulations, to be used for the purpose therein stated, and for which said committee is appointed.

IX.—*Street lamps and police.*

It being expedient and necessary that some provision should be made for the lighting and cleansing of streets, and for a watch or police force, the foreign consuls, as aforesaid, shall, at the beginning of each year, convene a meeting of the renters of land within the foreign quarter, to devise means of raising the requisite funds for these purposes; and at such meeting it shall be competent to the said renters to declare an assessment in the form of a rate to be made on the said land or buildings, and in the form of wharfage-dues on all goods landed at any place within the said quarter; and to appoint a committee of three or more persons to levy the said rates and dues, and apply the funds so realized to the purposes aforesaid, or in such manner as may be agreed and determined upon at the said meeting, and to that end the said committee shall be empowered to sue all defaulters in the consular courts under whose jurisdiction these may be, (and in case the said defaulters have no consular representative at this port, then the governor of Nagasaki shall, upon application of the committee, through the foreign consuls, recover from such defaulters the amounts due from them for land-assessment or wharfage-dues, and pay the same to the said committee.) Moreover, at each yearly meeting the accounts of the committee for the past year shall be laid before the assembled renters for their approval and sanction.

It shall also be competent for the foreign consuls, collectively or singly, when it may appear to them needful, or at the requisition of the renters of land, to call a public meeting at any time, giving ten days' notice of the same, setting forth the business upon which it is convened, for the consideration of any matter or thing connected with the land, provided always such requisition shall be signed by not less than five of the said renters, and that it set forth satisfactory ground for such request.

The resolutions passed by a majority at any such public meetings on all such matters aforesaid shall be valid and binding upon the whole of the renters of land within the said limits, if not less than one-third of them are present. The senior consul present at such meetings shall take the chair, and in the absence of a consul then such renter as the majority of voters present may nominate. If renters of land in public meetings assembled, as herein provided, decide upon any matter of a municipal nature not already enumerated, and affecting the general interest, such decision shall first be reported by the chairman to the consuls for their joint concurrence and approval, without which approval, officially given, such resolution cannot become valid and binding upon the renters as a body.

X.—*Sale of spirits or liquors, opening of public houses, &c.*

No foreigner or Japanese shall sell spirits or liquors, or open a house of entertainment within the foreign quarters, without a license to do so from the said consuls, or the majority of them, and, if a Japanese, also from the governor, and upon good and sufficient security given for the maintenance of order in their establishments.

XI.—*Breach of regulations.*

Should one of the consuls at any time discover a breach of the regulations, or should information thereof be lodged with him, or should the local authorities address him thereon, he shall, in every case within his jurisdiction, summon the offender before him, and, if convicted, punish him summarily.

Should any foreigner who has no consular authority at this port commit a breach of the regulations, then and in such case the Japanese chief authority may be appealed to by any one or more of the consuls, to uphold the regulations in their integrity and punish the party so infringing them.

XII.—*Provisional clause.*

Hereafter, should any correction be requisite in these regulations, or should it be necessary to determine on further regulations, or should doubt arise as to the construction

of, or powers conferred thereby, the same must be consulted upon and settled by the consuls and governor, in communication together, who shall equitably decide thereon, the consuls submitting the same for confirmation to the representatives of their respective countries in Japan.

XIII.—*Supplementary clause.*

Portions of Articles VIII, IX, and XI, foregoing, requiring the exercise of jurisdiction by the governor over the subjects of other nations, appearing to his excellency to comprise not only a local question but one of an international nature, which it is beyond his authority to accept: It is agreed that such jurisdiction on the part of the governor shall be held in abeyance for a period of sixty days from the date of signature, that the subject may be submitted for the instructions of the respective authorities at Yeddo, and in the event of such instructions, under the signatures of the Japanese and foreign ministers, being received, to the effect that the said portions of Articles VIII, IX, and XI are to be expunged, then and in such case the foregoing land-regulations shall be held complete without them, and a note shall be subjoined to the effect that they have been so annulled.

The consuls referred to in these regulations are consuls (or persons duly acting as such) of powers having treaties with Japan.

In witness whereof we have hereunto set our hands and seals this 29th day of September, 1860, corresponding with the Japanese fifteenth day of the eighth month, first year of Manyen.

GEO. S. MORRISON,
Her British Majesty's Consul.

INO. G. WALSH,
United States Consul.

J. H. EVANS,
His Majesty's Foreign Minister Consul.

K. R. MACKENZIE,
Consul de France.

AMENDMENT TO THE LAND-REGULATIONS.

The foregoing land-regulations having been referred for the sanction of the Japanese and foreign ministers at Yeddo, in accordance with supplementary article XIII, the said land-regulations have been approved and sanctioned with the exception of such portions of Articles I, VIII, IX, XI, which provide under certain cases for the exercise of jurisdiction by Japanese authorities over the subjects of foreign nations having treaties with Japan, and said portions of said articles (together with Article XIII, relating exclusively thereto) have been and are hereby expunged.

GEO. S. MORRISON,
Her British Majesty's Consul.

INO. G. WALSH,
United States Consul.

J. LOUREIRO,
Consul for Portugal, and Consular Agent for France.

NOTICE.

The following fees will be charged at this consulate for transaction of business relating to land:

Issue of title-deed, \$20. Transfer of title-deed, \$10. Issue of any license under the land-regulations, \$10. Renewal, \$5. Any other matter, \$1.

GEO. S. MORRISON.

[Inclosure 9 in No. 228.]

Mr. Hawes to Mr. Van Buren.

UNITED STATES CONSULATE,
Hakodadi, April 26, 1875.

SIR: I am in receipt of your letter No. 684, dated April 2, inquiring, by direction of the American minister, what powers, if any, are exercised or claimed by the consular

board, or any of the consuls resident in Hakodadi, to make laws or regulations having the force of law at this port, and how such power, if exercised, is conferred. Also, upon what authority the general police and municipal regulations are adopted and made binding.

In reply, I have to state that no rules nor regulations in regard to licenses or any other subject have been made at Hakodadi by the consuls, either collectively or separately, except some harbor regulations which were at one time drawn up and adopted in a somewhat irregular manner, but which have since been formally annulled by the consuls conjointly.

Exclusive jurisdiction in all civil and criminal proceedings against or between citizens or subjects of foreign countries at this port, is conceded by the local authorities to, and is exercised by, the consul representing the nationality of the party or parties immediately concerned, the action of the consul being governed by the laws of his own country. The same is true substantially of the local municipal and police regulations. So far as foreigners are concerned they are only arrested, tried, and punished by or through their respective consuls, acting independently of each other. We have no organized foreign police. The municipal and police regulations of Hakodadi relate, principally, to Japanese, and, of course, are made and enforced by Japanese authority. Lest this paragraph lead to a misapprehension, I will state that, speaking for myself only, I should deem it proper to enforce the observance by American citizens of any reasonable regulation of the local authorities, if occasion should require; but no case has ever occurred which called for my action in this direction.

Trusting that my answer to your inquiries is sufficiently explicit to meet your wishes, I have the honor to be, very respectfully, your obedient servant,

J. H. HAWES,
United States Consul.

Gen. THOS. B. VAN BUREN,
United States Consul-General, Yokohama.

[Inclosure 10 in No. 228.]

Mr. Kraetzer to Mr. Van Buren.

M. LE CONSUL-GENERAL: I did not deem it possible that the circular which you have done me the honor of addressing me, the 1st of April, could be addressed me, because in the consular union, where we occupy ourselves with these regulations, I have had the honor to make known the fact, verbally, that France has no special laws for the consulates; that I have no special rule to promulgate; but that it is my business to cause to be respected the French laws in general, (in the usual French code.) That all the French laws are regulated for Frenchmen in countries of jurisdiction, (where bodies of magistrates preside,) these Frenchmen being considered in the same light as inhabitants of France, (or of a French country.) The only differences that exist are in the procedure, which is regulated by the edict royal of June, 1778, and the laws of July 8, 1852, and of March 9, 1862.

Receive, Monsieur le Consul-General, the assurance of my most distinguished consideration.

KRAETZER.

CONSULATE OF FRANCE.

[Inclosure 11 in No. 228.]

CONVENTION.

YEDO, October 28, 1867.

The undersigned, having met to consider the memorial of the land-renters at Yokohama to the foreign representatives, dated July 15, 1867, requesting that the Japanese government may be called on to resume the control and management of the municipal affairs of the foreign settlement at Yokohama, have agreed to recommend to the Japanese government the adoption of the following measures, as being essential, under present circumstances, to insure the maintenance of order and health within the said foreign settlement:

I. That an office to be called the land and police office be formed under the Japanese government at Yokohama, and placed in charge of a foreign director, who will be subordinate to the governor of Kanagawa.

II. The said director, acting under the authority of the governor of Kanagawa, shall see to the repair, cleanliness, and efficiency of all the streets and drains in the foreign settlement at Yokohama. He shall be authorized to receive such complaints rela-

tive to police or the state of drains and thoroughfares as may properly be addressed by foreigners to the local government direct, and in the name of the governor of Kanagawa will prosecute foreigners before their own authorities for nuisances or any infringement of public order.

III. The said director, acting under the authority of the governor of Kanagawa, will have the charge and the direction of all foreigners who may be employed as police for the maintenance of security and order within the foreign settlement of Yokohama, or for the repression of disorderly conduct on the part of foreigners within the port of Kanagawa. Whenever a subject or citizen of a treaty-power is arrested in the commission of an offense by the said director, or any foreigner or Japanese acting under his orders, or the orders of the governor of Kanagawa, the person so arrested must be conveyed at once to the consul of his nation, who will take steps for the detention of the offender until he can be prosecuted.

IV. The governor of Kanagawa, acting with the advice and assistance of the said director, and with such advice as he may obtain from foreign consuls, will exercise jurisdiction—both criminal and civil—over the subjects of China, and the subjects and citizens of other non-treaty powers residing within the said settlement, or within the port of Kanagawa.

V. The land-rents payable by foreigners will be collected by the said director as soon as they become due, for and on account of the governor of Kanagawa, and the said director, acting in the name of the governor of Kanagawa, will be empowered to sue foreigners for default of payment before their own authorities.

VI. The undersigned undertake to instruct their respective consuls to confine within the narrowest limits compatible with public convenience the number of licenses issued by them to their respective subjects or citizens as sellers of foreign spirits or liquors, or as keepers of houses of entertainment within the foreign settlement, or within the port of Kanagawa. A copy of every license will be furnished by the consul, as soon as it is issued, to the governor of Kanagawa, and the said director will inform against any person who sells liquors or keeps a house of entertainment without the license of his authorities.

VII. The Japanese government will make arrangements for the safe storage, at reasonable rates, of gunpowder or other explosive substances imported into the port of Kanagawa, and the undersigned will take the necessary steps to prevent their respective subjects or citizens from using any other place for the storage of these dangerous substances.

HARRY S. PARKES.

L. ROCHES.

R. B. VAN VALKENBURGH.

VON BRANDT.

D. DE GRAEFF VAN POLSBROEK.

[Inclosure 12 in No. 222.]

Mr. Robertson to Mr. Van Buren.

BRITISH CONSULATE, *Kanagawa*, May 13, 1875.

MY DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your letter of the 1st April, requesting me to inform you, first, "what enactments, if any, had been made by this consulate, imposing new obligations upon my countrymen in Japan, and by what authority such enactments had been made." I scarcely understand what is meant to be conveyed by the words "new obligations," and so am somewhat at a loss to reply to this query. But, at the outset, I may state that British consuls in Japan have no power at present to make enactments of any kind. Such would always issue from the legation, though it may not infrequently happen that it is by the suggestion of a consul that Her Majesty's minister is moved to issue a regulation. Before the order in council, Her Majesty's minister, or the consul, with the approval of the minister, either under the powers conferred by prior orders in council or under Article XX of the treaty between Great Britain and Japan, issued regulations from time to time with the object of carrying into effect the treaty and the trade regulations attached thereto, and for the good order and governance of Her Majesty's subjects in Japan, but section 85 of the order in council, above quoted, is more comprehensive, and it is under this that Her Majesty's minister issues from time to time such regulations as seem to him necessary.

I give the section at length: "Her Majesty's minister in Japan or China may, from time to time, make such regulations as seem fit for the peace, order, and good government of British subjects resident in, or resorting to, Japan or China, and for the observance of the stipulations of treaties between Her Majesty, her heirs or successors, and the Emperor of Japan or China, and for the maintenance of friendly relations between British

subjects and Japanese or Chinese subjects and authorities, and may make any such regulations apply either throughout Japan or China, or to some one or more of the consular districts in Japan or China; and may by any such regulations repeal or alter any regulations made for any such purposes as aforesaid before the commencement of this order. Any such regulations shall not have effect unless and until they are approved by Her Majesty, such approval being signified through one of Her Majesty's principal secretaries of state, save that in case of urgency, declared in any such regulations, the same shall have effect unless and until they are disapproved by Her Majesty, such disapproval being signified through one of Her Majesty's principal secretaries of state, and notification of such disapproval is received and published by Her Majesty's minister in Japan or China."

Your second inquiry is, "What authority, if any, do I possess to grant licenses for the sale of liquors within my consular jurisdiction and to impose penalties in connection therewith?"

The query is rather an embarrassing one, but I will do my best to answer it. In the early days of this settlement certain regulations were issued by Mr. Charles Winchester, Her Britannic Majesty's chargé d'affaires, one of which ran as follows:

"No British subject may establish either a boarding-house, eating-house, or other public house of entertainment, or a butcher-shop or slaughtering-house, without the sanction of the consul and under such conditions as he may require."

I fail, however, to find in my records whether the British consul singly, or acting jointly with his colleagues, ever drew up the conditions which were contemplated in this regulation. When I succeeded to the charge of this consulate, I found that it was the practice to charge publicans or victuallers a license-fee of \$12 a month, but it did not occur to me to go into the origin of this fee until the licensed victuallers made a stand last year and declined to continue the payment. I then went into the question with my colleagues, but after much research we could only ascertain, with anything like certainty, that in 1862 the French minister, M. de Bellecours, had issued a very complete set of regulations in respect to licensed victuallers (French) in Yokohama, the fees payable, and the penalties for any breach of the regulation. In our order in council of 1865, above referred to, certain previous orders in council were repealed, and among them an important one dated February 4, 1861. It was under this last-mentioned order in council that Mr. Winchester issued the series of regulations from which I have extracted regulation 8, above mentioned. Even, therefore, if this regulation had been given effect to, it is a question whether it would now have any force, viewing the fact that the very order in council to which it owes its birth is itself repealed.

It does not seem to have occurred to any one, however, to bring about the issue of new regulations under the order in council of 1865 for the governance of licensed victuallers, so that the due sequence of things might be carried on, following article 8 of the regulations issued under the prior order in council, and hence the deplorable situation into which the matter has fallen, so far as British subjects are concerned. I have, as you are aware, addressed Her Majesty's minister on the subject, and a proposed draught of regulations has been submitted to the diplomatic body, but I am disposed to think that Her Majesty's minister is disinclined to legislate solely for British subjects, unless the other foreign representatives are disposed to adopt a like course with regard to their respective nationals.

In reply to your third query, Mr. Benson can, I think, furnish you with a printed copy of the convention under which the municipal directorate was established, but municipal regulations in the full sense of the term have never existed, nor do they exist in Yokohama at the present moment, with the exception, perhaps, of the land regulations under which the title-deeds are issued.

I am, my dear colleague, faithfully yours,

RUSSELL ROBERTSON.

General T. VAN BUREN,
United States Consul-General.

No. 384.

Mr. Bingham to Mr. Fish.

No. 232.]

UNITED STATES LEGATION, JAPAN,
Tokai, June 7, 1875. (Received July 9.)

SIR: On the 26th ultimo, I received from Thomas B. Van Buren, esq., United States consul-general at Kanagawa, the inclosed communication, (inclosure 1.)

In reply thereto, I this day addressed to the consul-general a dispatch, a copy of which is herewith, (inclosure 2)

You will observe that the consul-general, in his communication, states that he has informed the governor of Kanagawa, in writing, that he (the consul-general) should, on the 30th ultimo, withdraw from J. M. Rapport, an American citizen, his official protection, leaving him to be deported or punished for future offenses by the Japanese authorities.

You will notice that the 7th article of the treaty of 1858 defines the forfeitures to which American citizens convicted of felony, or twice convicted of misdemeanors committed in Japan, shall be subjected. These forfeitures are restriction to one Japanese ri inland from the places of their respective residences during the time allowed by the consul after their enlargement from prison, not exceeding one year, and, after the expiration of the time so allowed, the loss of right to reside longer in Japan.

By no rule of construction, it seems to me, can the consul-general declare the right of a citizen of the United States to be tried for all offenses committed in Japan before an American consul, and on conviction to be punished according to American law, forfeited, and such citizen to be subjected thereafter to trial by torture in Japanese tribunals and to the cruel and inhuman penalties of Japanese law. The express provision of the treaty, that the forfeitures following conviction of felony, or repeated convictions of misdemeanors, shall be as above stated by necessary implication excludes all other forfeitures.

The rule universally accepted, that effect must be given, if possible, to every express provision of a written law, seems to require that the treaty-provision, which is the supreme law for all American citizens, shall be observed, to wit: Americans committing offenses against Japanese shall be tried by American consular courts, and, when found guilty, shall be punished according to American law. (Article VI, Treaty of 1858.) By the act of June 22, 1860, (12 Statutes at Large, page 72, section 2,) Congress has construed this provision of the treaty so as to subject all American citizens, for all offenses against law in Japan, to trial only before American tribunals, and to such punishment, upon conviction, as is therein authorized. The treaty-provision that the Japanese authorities may require the parties who forfeit the right of permanent residence in Japan "to leave the country," does not, in my opinion, confer upon Japanese tribunals jurisdiction over the persons of American citizens so convicted, nor does it subject them to trial and conviction in Japanese tribunals. Laws enacted by this government not in conflict with our treaty and laws may and ought to be enforced against Americans in Japan by American consular courts. If the Japanese government, therefore, sees fit, there is no reason why it cannot make a law declaring that the continued residence of such convict in the country should be punished by fine and imprisonment, after the sentence of an American consular court that he is guilty of a felony or is convicted of a second misdemeanor, and shall forfeit his right of residence in Japan. This was the sentence of the consular court in the case of John Rogers, which the Department approved in the instruction to my predecessor, No. 193, of date 16th April, 1873.

It seems to me that my reply to the consul-general, inclosed herewith, and all that I have herein stated, but reflects the results of all my instructions hitherto received, and especially the instruction of the Department to my predecessor, No. 87, of date 22d May, 1871, as well as No. 193, above mentioned. Instruction No. 87 to Mr. De Long contains these words:

All that has been sought by the Christian powers is to withdraw their subjects from the operation of such laws as conflict with our ideas of civilization and humanity, and to keep the power of trying and punishing in the hands of our own representatives.

It seems clear to me that the enforcement of our treaty with this government, and of all laws, whether Japanese or American, upon all American citizens offending against the same in Japan, is intrusted exclusively to American tribunals, governed, as to modes of procedure and penalties, by the provisions of American law.

This matter is of so much importance, that I deem it my duty to submit it to the consideration of the Department for instructions thereon.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 232.]

Mr. Van Buren to Mr. Bingham.

No. 850.]

UNITED STATES CONSULATE GENERAL,
Kanagawa, (Yokohama,) Japan, May 25, 1875.

SIR: One J. M. Rappeport, an American citizen residing in Yokohama, who has spent the greater part of the past year in the jail of this consulate, upon convictions for grossly assaulting and beating a woman he calls his wife, is now undergoing a ninety days' sentence, (for the like offense,) which will expire on the 30th instant. He is a notorious drunken ruffian, and it is certain that he will not be ten days at liberty without repeating the offense. Therefore, in passing the last sentence upon him, I announced that upon its expiration I should recommend to the Japanese authorities to deport him.

Accordingly, I have informed the governor of this ken, in writing, that I should on the 30th instant withdraw from him my official protection, leaving him to be deported or punished for future offenses by the Japanese authorities.

In reply I have received a request from the governor to deport him "in accordance," as he says, "with Art. VII of the treaty."

This I have declined to do, explaining that no such right was conferred upon me by the article referred to.

I am told that there is on file at your legation instructions from the Department upon this subject. If so, will you kindly furnish me with a copy, and oblige,

Your obedient servant,

THOS. B. VAN BUREN,
United States Consul-General.

HON. JOHN A. BINGHAM,
United States Minister, &c.

[Inclosure 2 in No. 232.]

Mr. Bingham to Mr. Van Buren.

No. 167.]

UNITED STATES LEGATION,
Tokai, June 7, 1875.

SIR: Referring to your dispatch of date the 25th ultimo, No. 850, in relation to J. M. Rappeport, and the request of the Japanese governor of Kanagawa for his deportation, I have to say that, in my opinion, the provision of the VIIth article of the treaty of 1858, that the Japanese authorities may require Americans who may have been convicted of felony or twice convicted of misdemeanors to leave the country, does not, as your dispatch seems to imply, confer the power upon the Japanese government either to deport such convicted Americans or to subject them to Japanese jurisdiction and punishment. By such conviction of felony or such repeated convictions of misdemeanors the American so convicted forfeits his right to go more than one Japanese *ri* inland from his residence, or to abide in Japan beyond the time allowed by the American consul, not exceeding one year; but, in my opinion such convict does not forfeit his right to be tried for all further offenses which he may commit in Japan by American consular courts, and, if found guilty, to be punished according to American law.

I inclose for your information, as you request, a copy of Department Instructions, No. 193, of date 16th April, 1873, in which it appears that, in the case of John Rogers,

Consul Shepard, in the opinion of the Department, "did not transcend his power." The Department, you will observe, says "the judgment and sentence appear to have been authorized by law," &c. The judgment and sentence in the case reads as follows:

"Of the crime charged the court finds the prisoner guilty, and the sentence is, that John Rogers be imprisoned at hard labor for the term of one year, and that he forfeit his right of residence in Japan."

It would seem from the last paragraph of the inclosed instruction that no authority was given by law to the consul, in the opinion of the Department, to deport such convicted citizens, as the Department says the consul will "be instructed to explain to the Department by what authority he sent American citizens out of the country."

I am, sir, your obedient servant,

JNO. A. BINGHAM.

THOS. B. VAN BUREN, Esq.,
United States Consul-General, Kanagawa.

No. 385.

Mr. Bingham to Mr. Fish.

No. 238.]

UNITED STATES LEGATION, JAPAN,
Токеи, June 22, 1875. (Received July 24.)

SIR: His Majesty the Mikado has been pleased to summon the representatives of the people of Japan by proclamation, which the "*Nichi Nichi Shimbun*," a native journal, not inaptly designates as the "Mikado's address to the nation."

I have the honor to inclose herewith a translation of this proclamation as published in the "Japan Weekly Mail," of date the 19th instant, (inclosure 1.)

You will observe His Majesty declares it to be his wish that the representatives of his subjects should determine upon such measures as may be thought necessary for the welfare of the people and for the advancement of the empire.

It will not escape your notice that this address is in full accord with the decree of His Majesty issued on the 14th of April last, a translation of which I had the honor to transmit in my dispatch No. 219, of date April 20, 1875.

Since writing the foregoing, I have received from Mr. Thompson, interpreter of the legation, a translation made by him of this proclamation and also of the regulations prescribed by His Majesty the Mikado for the government of the *gi-in*, or representatives of the people, as the same appear in the official journal, of date the 18th instant, entitled *Nisshin-Shinjishi*, or Daily Record, printed and published in Токеи, (inclosure 2.)

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 238.—Translation.]

The Mikado's address to the nation.

[From the Japan Weekly Mail, June 19, 1875.]

The "*Nichi Nichi Shimbun*" gives the following text of His Majesty the Mikado's address to the nation on the occasion of the approaching opening of the meeting of the provincial authorities:

"In accordance with the oaths we took upon ascending our imperial throne, we now summon to their deliberations the representatives of our subjects.

"It is our wish that they should amply discuss and determine upon such new measures as may be thought necessary for the welfare of the people, and thus facilitate the administration of our domestic concerns, and, further, that government and governed may be of one mind, and that the voice of the latter may thus find access to ourselves.

"It is hoped that all men may feel a due sense of the duties they owe to the state, and that the chief magistrates of cities and provinces will maturely consider and weigh well such projects as may be submitted to them for promoting the welfare and advancement of our empire. The deliberations of the assembly shall be guided by the rules made for its constitution and such by-laws as are now made known."

[Enclosure 2 in No. 238.—Translation.]

The Emperor's proclamation as published in the "Nisshin-shinjishi," (or "Daily Record,") being the official paper, of date June 18, 1875.

His Majesty wishes to build upon the principles to which he solemnly swore when he first ascended the throne, by degrees to extend the same, to summon together the representatives of the people of the whole country, with public and united deliberation to establish laws, to reconcile the higher and lower ranks, to open up a way by which the will of the people may find expression, make the people of the whole country contented each one with his own occupation, and to make each one know that it is his proper duty to bear the weight of the government, (country;) hence he summons together the chief officers of the provinces, and makes them consult together instead of the people, and publishes the regulations of the gi-in.

Let each official respect this.

REGULATIONS.

I. This deliberative assembly is one in which the chief officers of the provinces discuss affairs, and is ordinarily to be opened once every year. In case an extra session is called for, special proclamation of the time of such assembly will be made beforehand. If the principal officer cannot be present, he should send the next in rank to represent him.

II. When the assembly opens, the heads of each department, or their representatives, should be present in the gi-in, sit with the assembly, and take part in the discussion, but are not to be counted in the number of those who decide a matter.

III. Time of opening and closing.

His Majesty shall attend in person and conduct the ceremony.

IV. If there is an inquiry by the Emperor, he shall either send down a bill or send a deputy to make known his will.

V. Every bill shall be presented for discussion by the chairman, and, when it is decided, it shall be sent in to the Emperor. The Emperor himself is to judge whether it is to be adopted or not.

VI. The object of the deliberation is to consider what is convenient or inconvenient in the administration of government; hence it is important that each one should express his opinion fully, act with deliberation and moderation, consider all sides, and avoid conflict.

VII. The decision of questions discussed is to be by a majority; when equally divided, the chairman is to decide.

VIII. Each official is fully to express his opinion in the assembly, but is not to carry his views to the extreme, even when provoked.

IX. If the discussion of the gi-in on a question proposed by the Emperor does not suit the times, he may withdraw it, but may not withdraw a bill under discussion which is to be referred to him.

X. (The tenth being the same as the fifth article, is to be omitted.)

XI. The power of choosing a chairman is to be in the assembly of officials, but until suitable regulations are made the Emperor himself will appoint him.

XII. The duties of chairman are, to observe the rules of the gi-in, to keep the members in order, raise discussions on questions proceeding from or referable to the Emperor, pay attention to the discussion of members, decide questions when the body is equally divided, but he is not to give utterance to his own views in the assembly.

No. 336.

Mr. Bingham to Mr. Fish.

No. 239.]

UNITED STATES LEGATION, JAPAN,
Tokai, June 22, 1875. (Received July 24.)

SIR: I have the honor to inclose herewith (inclosure 1) a copy of a communication from his excellency the minister of foreign affairs, Mr. Terashima, in which he informs me of the organization of the new judicial department, the daishinin, and transmits a copy of the regulations adopted for the government thereof and of the several courts.

Mr. Thompson has carefully translated the regulations, a copy of which is herewith (inclosure 2) inclosed.

I am, &c., &c.,

JOHN A. BINGHAM.

[Inclosure 1 in No. 239.—Translation.]

Mr. Terashima to Mr. Bingham.

No. 29.]

FOREIGN OFFICE, TOKAI,
The 9th of the 6th month of the 8th year of Meiji.

SIR: I have the honor to notify your excellency that the duties of the members of the daishinin, and of all courts, and the regulations governing their proceedings, have been established as shown in the accompanying printed pamphlet.

They have been promulgated under the title of proclamation No. 91, and I have much pleasure in transmitting them to you.

With respect and consideration,

TERASHIMA MUNENORI,

His Imperial Majesty's Minister for Foreign Affairs.

His Excellency JOHN A. BINGHAM,

Envoy Extraordinary and Minister Plenipotentiary of the United States.

[Inclosure 2 in No. 239.—Translation.]

PROCLAMATION No. 91.

The officers and duties of the daishinin, and of the various courts, are specified in the paper subjoined, and proclamation made accordingly.

SANJO SANEYOSHI.
DAIJO DAIJIN.*24th of the 5th month of the 8th year of Meiji.*

Officers and modes of procedure in the daishinin and various courts:

I. OFFICERS OF THE DAISHININ.

1. *President.*

A first-class hanji (or judge) shall fill this office.

(a) As presiding judge of the supreme court, he shall direct the heads of each department, assign business, from time to time visit each court, hear and consider weighty and important matters, and communicate with the minister of the shihosho, (judicial department.)

(b) As chairman of a deliberative body, when the opinion of the judges is divided, he is to decide in favor of the majority, and when there is a tie, he is to have the casting vote.

2. *Hanji, (judges.)*

(a) The judges are to hear complaints in civil and criminal matters, set aside unlawful decisions, decide upon offenses against the country and important cases occurring

in the intercourse between Japan and foreign countries, and also investigate the offenses of judges.

- (b) They shall review cases of capital offenses.
- (c) They shall consider, doubtful questions of law.

3. *Sakan*, (*attaché or assistant*.)

The assistant shall accept duty from the judge, make out reports, and keep records.

DUTIES OF THE DAISHININ.

1. The daishinin shall receive appeals in civil and criminal matters, set aside unlawful decisions of the superior and inferior courts, and be the means of giving uniformity to the laws of the whole land.

2. After it has set aside an unlawful decision, it may refer the matter to another court to be decided. Also, if convenient, the daishinin may itself decide the matter.

3. After a matter has been referred to another court to be decided, if the decision of that court and of the daishinin is not accepted, the daishinin may decide the matter directly. In such cases, the judges of the daishinin, having met and deliberated, shall decide the matter.

4. When military and naval courts exceed the limit of their authority, the daishinin shall set aside their decisions and refer the matter to the proper court.

5. The daishinin shall try the offenses of all judges, with the exception of contempt of court.

6. It shall try all important cases of offenses against the country, and cases occurring in intercourse with foreigners, and important civil and criminal cases.

7. It shall consider all reports of capital offenses referred to it from the various superior courts, and, having concluded as to the merits or demerits thereof, shall return the same. Cases which cannot be thus adjusted shall be discussed in assembly, the law shall be determined, and then they shall be returned.

8. The decisions of the daishinin must be made by five or more judges sitting together; less than five together cannot decide a matter.

9. Doubtful matters of law are to be examined by the daishinin.

10. When the law is defective, the daishinin shall make provision to meet the defect, and refer the matter to the Emperor, through the minister of the shihosho, (judicial department.)

11. The daishinin shall keep a record of decisions, of appeals set aside, of doubtful cases considered, and these, with the reasons assigned, shall be forwarded to the shihosho for publication.

12. The classification or division of business is as follows:

- (a.) Civil cases.
- (b.) Criminal cases.

SUPERIOR COURTS.

I.—*Officers*.

1. President. A judge, appointed by the Emperor, shall fill this office. He shall refer matters in controversy to each division, direct the head of each division, from time to time visit the courts, hear important and weighty matters, and communicate with the minister of the shihosho and the head of the daishinin.

2. He shall take into consideration what is convenient for the circuit courts within his district.

II.—*Judges*.

1. They shall receive complaints within their district and decide upon them.

2. They shall visit the *fus* and *kens* (large and small cities) in their district, and in each place decide the punishment of capital crimes.

N. B.—The circuit regulations will be given hereafter.

III.—*Assistant judges*.

1. Shall receive business from the judge, and make preliminary examination.

2. Shall follow the judge in his circuit, and shall sit with him.

Sakan, (*assistants*.)

The duties of the *sakan* are the same as the duties of the *sakan* of the daishinin, which see.

Duties of the superior courts.

1. Superior courts are to be located at four places, viz: Tokei, Osaka, Nagasaki, and Fukushima, to decide the cases of those who do not yield to the decisions of the fu and ken courts. (The limits of each district will be given elsewhere.)

2. Superior courts have power to try capital crimes. The judge and assistant judge of each superior court, together, shall go forth and make the circuit of the district, and administer justice.

3. In trying capital crimes, after the law has been well considered, a report of the case shall be made to the daishinin, and after having received its instructions is to be decided.

4. They shall try cases involving punishment during life with hard labor, referred to them from the courts of the various fus and kens.

5. They shall decide the case when lawyers within the district disagree as to what is the law.

6. In civil cases even, when the court is opened, it is necessary for three judges to sit together.

7. If one does not accept the decision of the superior court he cannot prosecute his claim further, but may appeal to the daishinin to have the judgment set aside.

Rules of the circuit courts.

1. These are to be held in the fus and kens under the jurisdiction of the superior courts, to determine the punishment of capital crimes beyond the powers of the fu and ken courts.

2. Such courts are to be held in each province twice a year. In cases of emergency this rule need not be observed.

3. The president of this court shall determine the frequency and order of such circuit courts, and, after consultation with the minister of the shihosho, (judicial department,) shall arrange them accordingly.

4. The fu and ken courts shall make preliminary examination of capital offenders, obtain evidence, prepare a statement of the case, and wait for the opening of the court.

5. In proportion as the extent of the district of the superior court is wide or narrow it shall be divided into two or three subdivisions, and two officials, one judge and one assistant, be sent to each.

6. The judge of the circuit court of a fu or ken, when he takes his seat, shall have, as assessors, two circuit court officials, making (with the judge) three in all.

7. When a case has been heard the judge shall send a report to the daishinin for its approval or disapproval, which being sent down to the fu and ken courts, the case is to be decided accordingly.

8. The time which an officer of the court will remain in any fu or ken cannot be determined beforehand, but must depend upon the amount of business.

FU AND KEN COURTS.

Officers.

President of the judges, (from the fifth to the seventh rank.) He is to correspond with the minister of the shihosho, the president of the daishinin, and the presidents of the superior courts. In other respects he is the same as a judge.

Judges.

These are to make the first examination of civil cases, and decide all those criminal cases involving confinement with hard labor, (for a limited time.)

Assistant judges.

These are to have duties assigned them by the judge, and supply his place when necessary.

Sakan, (attachés.)

The duties of the sakan of this court are the same as the duties of the sakan of the superior court.

Duties of the fu and ken courts.

1. One court is usually located in each fu and ken, to decide all civil cases and criminal cases punishable by confinement with hard labor. In those kens in which no court is located, the chihokan (governor of the province) shall act as judge.

2. These courts shall make the first examination in all cases, great or small, which are tried in the fu and ken courts; after which the case can be carried to the superior court.

3. Civil and criminal cases affecting foreigners, if unimportant, are to be decided at once; if important, to be heard in outline, and the outline reported to the minister of the shihosho.

4. In capital cases, they shall prepare evidence, retain the prosecutors, and await the circuit judge.

5. In cases involving punishment for life, a statement is to be prepared and submitted to the superior court, after which the case is to be decided.

General rules regulating the office of judge.

1. From the daishinin downward to the fu and ken courts, judges from those of the first to those of the seventh rank are appointed.

From the superior courts downward, assistant judges, from assistant judges of the first to those of the fourth rank are appointed.

(An assistant judge of the first rank is an officer of the eighth rank.)

2. A session of the daishinin shall consist of five or more judges, one of whom shall be appointed president.

A session of the superior court shall consist of three or more persons, one of whom shall be appointed president.

When the number of judges in the superior court is not sufficient, an assistant judge may sit, but not two assistant judges.

3. The president thus appointed shall convene, conduct, and adjourn meetings.

4. The president of the judges has power to direct this president.

5. Separate places may be appointed for hearing civil and criminal cases separately, or one court may hear both at different times, according to the urgency of the case. The uniting or dividing the two classes of civil and criminal cases must be regulated by considerations of convenience; when divided, the number of judges must be complete, and when not complete, the number must be made up.

6. When a case has been heard and is about to be decided, the judicial officers shall leave their places, and, having consulted, a majority shall determine the case. If there are three, two shall determine; if there are five, three or more shall determine it. When there is no majority, as when three have all different views, or when, of five judges, two hold to one view and two to another, the president shall decide the case as he sees fit.

7. The president of the daishinin and presidents of superior courts shall visit the various places of holding courts, both civil and criminal, and may perform the duties of the acting judge, in which case the acting judge shall relinquish his place and assume that of an ordinary court officer.

8. Great offenders and cases hard to be investigated shall undergo preliminary examination.

This examination shall take place elsewhere, with closed doors, being conducted by the court official and a secretary, who, having made out a report, shall refer the matter to the court.

9. If, after the matter has been referred to the court, the evidences of guilt are not yet clear and sufficient, the presiding judge may hand him over to another officer to undergo another examination.

No. 387.

Mr. Bingham to Mr. Fish.

No. 245.]

UNITED STATES LEGATION, JAPAN,
Tokai, July 17, 1875. (Received August 13.)

SIR: On the 4th instant I received from Thomas B. Van Buren, esq., consul-general of the United States at Kanagawa, a communication dated the 3d instant, relative to the extradition of a person charged with the embezzlement of the money of his employers, and who, it is alleged, has taken refuge in California, a copy of which communication I have the honor to inclose herewith, (inclosure 1.)

It seemed to me proper to acquaint the consul-general that, in my opinion, he had no jurisdiction in the case as stated, nor was the party charged, assuming him to be an English subject, within the extradition-

provisions of the existing treaties between England and the United States; a copy of which opinion, as sent to the consul-general, is herewith, (inclosure 2.)

It seems to me that rules 279 and 280 (Revised Consular Regulations, page 68) manifestly adopted in aid of the act of 1860, (12 Statutes at Large, page 84, section 1,) necessarily imply that the consul-general has no jurisdiction in cases of the extradition of criminals, save when expressly instructed by the Department of State or the diplomatic representative of the United States to assist in the arrest and detention of criminals for their extradition from a foreign country to the United States.

These rules would seem to exclude the conclusion that the consul-general of the United States could take action in Japan for the extradition of a British subject from the United States to Japan "to be tried in a British court," as the consul-general states.

So far as I know, the only extradition-treaty provisions now in force between the United States and Great Britain are contained in the 10th article of the Webster and Ashburton treaty, negotiated at Washington 9th August, 1842. That treaty makes no provision for the extradition of persons charged with the embezzlement of the money of their employers, or with the embezzlement of public money.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 245.]

Mr. Van Buren to Mr. Bingham.

UNITED STATES CONSULATE-GENERAL,
Kanagawa, (Yokohama,) July 3, 1875.

SIR: At the request of Mr. Brooke, editor of the Japan Herald, I write to ask your opinion and advice upon a matter connected with the existing extradition treaty between England and the United States.

A collector for the Herald and some other business houses has decamped on the Great Republic for San Francisco, carrying with him quite an amount of money belonging to his employers.

The latter desire to arrest him, and, if possible, have him brought back here for trial. They desire to know—

1. Does the extradition treaty permit extradition for the crime of embezzlement?
2. Does it permit the extradition of the accused to the empire of Japan to be tried in a British court?
3. If yes, what steps are necessary, and who is the proper officer to whom to apply here for the necessary papers?
4. Can the accused be arrested in San Francisco and held to await the necessary papers by a telegram?

My own opinion is that the accused cannot be brought here, but I shall await your advice.

Your obedient servant,

THOS. B. VAN BUREN,
Consul-General.

Hon. JOHN A. BINGHAM,
United States Minister.

[Inclosure 2 in No. 245.]

Mr. Bingham to Mr. Van Buren.

UNITED STATES LEGATION,
Tokei, July 8, 1875.

SIR: Your communication of the 3d instant, in relation to the extradition of a person who has fled to the United States, accused of embezzlement while in the employment of Mr. Brooke, has been received.

I infer from the tenor of your communication that the person charged is a British subject, and committed his offense in Japan.

It is my opinion that the question raised by Mr. Brooke, whether the person so charged and now in the United States can be arrested there under the extradition provisions of our existing treaties with Great Britain, is a question over which you have no jurisdiction, and that the party so charged is not by said treaties liable to be arrested in the United States for the crime charged against him, and therefore would not be surrendered under the existing treaties as a fugitive from justice to be returned to Japan to answer before a British tribunal.

I am, sir, your obedient servant,

JOHN A. BINGHAM.

THOS. B. VAN BUREN, Esq.

United States Consul-General, Yokohama.

No. 338.

Mr. Bingham to Mr. Fish.

No. 253.]

UNITED STATES LEGATION,

Токеи, Japan, August 4, 1875. (Received September 10.)

SIR: On the 31st ultimo, I received from his excellency Terashima Munenori, the Japanese minister for foreign affairs, the inclosed communication in relation to the fisheries of Japan, together with the fishing regulations adopted by his government, copies of which communication and of the regulations (translated) I have the honor to inclose herewith, (inclosure 1.)

You will observe the general terms in which fishing is prohibited, both as to the distance from the shore and the coast to which the prohibition applies. It seems to me desirable that the regulations should be more definite in these particulars, and I shall avail myself of an early opportunity to confer with my colleagues and with the foreign minister upon the subject.

The recent exchange of territory between Russia and Japan in the north has not yet been officially communicated to me, and hence I am in doubt as to the territory included within the regulations.

I beg leave to submit the matter to your consideration, and to request of the Department such instructions in relation thereto as may be deemed advisable. I especially ask the attention of the Department to the second and third regulations, providing for the search and seizure of our vessels on the high seas.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 253.—Translation]

Mr. Terashima to Mr. Bingham.

No. 41.]

FOREIGN OFFICE,

Токеи, the 31st, the 7th month of the 8th year of Meiji.

YOUR EXCELLENCY: With reference to illegal fishing by foreign vessels in the waters adjacent to the Hokkaido and to the other neighboring islands under the jurisdiction of the Japanese Empire, I had the honor to inform your excellency, in my letter dated 17th of the 5th month of last year, that it was proposed to take measures for the sustaining of the exclusive rights of Japan to and for the protection of those fisheries.

The rules and regulations ordering these fisheries have been determined upon as you will find them in the accompanying document, and I beg leave to request your excellency to promulgate them to your countrymen.

With respect and consideration,

TERASHIMA MUNENORI,

His Imperial Japanese Majesty's Minister for Foreign Affairs.

To His Excellency J. A. BINGHAM,

Envoy Extraordinary and Minister Plenipotentiary of the United States.

[Inclosure to inclosure in No. 253.—Translation.]

Proposed regulations concerning the taking animals by fishing, by hunting, or otherwise, on the shores of and off the coasts of all the islands of Hokkaido and of those adjacent thereto under the jurisdiction of the empire of Japan.

I. Every foreign vessel is prohibited from taking fish or other marine animals, either by the use of hooks and lines, or of nets, by shooting them, or in any other way whatever, within reach of a cannon-shot from the shore of any of the coasts of all the islands of Hokkaido and of those adjacent thereto belonging to this empire.

II. It shall be the duty of the Japanese officers specially appointed for the purpose to warn the vessel to leave the place when they have cause to believe her to be violating or to be preparing to violate this prohibition; and if a foreign vessel be found to have violated this prohibition, the said officers shall have the right to board such foreign vessel and to examine her cargo.

III. Whenever any foreign vessel has violated the prohibition contained in the first article, and whenever she shall refuse to leave the place or to allow the examination of her cargo, as mentioned in the second article, it shall be lawful for the officers mentioned in the above article to bring such vessel into the nearest open port, where she shall be placed in charge of the consul of her nationality, and, upon examination, if she be proved guilty, she shall be condemned to make proper reparation.

No. 389.

Mr. Bingham to Mr. Fish.

No. 254.]

UNITED STATES LEGATION, JAPAN,
Tokai, August 4, 1875. (Received September 10.)

SIR: Some days since, in a conversation with Sir Harry S. Parkes, I became possessed of information which has reached him touching certain American vessels which have been engaged in sea-otter hunting in the waters of Northern Japan.

It appears from the information which has reached Sir Harry that the Japanese authorities recently brought into Hakodadi, on board the Capron Maru, four American citizens who were left last autumn by the American vessel Fanny on the northeast side of the island of Iturup. These persons, it is said, erected a hut upon the island, and were provided with supplies, &c., for sea-otter hunting. The Fanny, it seems, was to call for them in the spring, but failing in this, they were found by the "Capron Maru," a Japanese vessel, taken, brought to Hakodadi as prisoners, and delivered to Mr. Hawes, the United States consul, who, I am told, sentenced the chief, or captain, to one hundred dollars fine for entering a non-open harbor, and discharged the other three as having acted under orders of their superior. I also gathered from Sir Harry that these persons had taken some fifty-three sea-otters, worth from one hundred dollars to one hundred and fifty dollars each, and that the consul holds these for the Fanny.

Sir Harry further informed me that in June last an American sloop, the Dolphin, of ten tons, cruised all winter off the islands to the north of Yesso, engaged in sea-otter hunting, and was finally lost, with all hands on board.

The captain of this vessel, it seems, perished from exposure on board, and the two survivors attempted to bring the sloop to Hakodadi, when she was wrecked off Nambu, with the result above stated. It is said the sloop had on board when she left Chikaten twelve sea-otters and one hundred and fifty fox-skins. I am informed that this sloop came over from San Francisco, two years ago, in seventy-two days.

This is reported to be the fifth fatal wreck, within the last eighteen months, of sea-otter-hunting vessels in the northern seas of this empire.

Now that Japan has prohibited this business upon her immediate coasts, would it not be well to make some proclamation warning all American-registered vessels not to violate the regulations. Of course, if they cannot land on the islands, they cannot prosecute very successfully this perilous business.

I am, &c.,

JNO. A. BINGHAM.

No. 390.

Mr. Cadwalader to Mr. Bingham.

No. 170.]

DEPARTMENT OF STATE,
Washington, August 18, 1875.

SIR: Your 245 has been received. It treats of the question whether a British subject guilty of embezzlement in Japan, and who has fled to this country, can be returned to Japan for trial under the extradition treaty between Great Britain and the United States, and you inclose a correspondence with Mr. Van Buren, consul-general at Yokohama, on the question.

Your reply to Mr. Van Buren, that the party so charged is not by said treaty liable to be arrested in the United States for the crime charged against him, and, therefore, would not be surrendered, under the existing treaties, as a fugitive from justice, to be returned to Japan to answer before a British tribunal, is fully in accord with the view of the Department, and is approved.

The tenth article of the treaty with Great Britain, of August 9, 1842, provides for delivery, on mutual requisition, of persons charged with certain specific offenses, (among which embezzlement is not included,) when committed within the jurisdiction of either, and who shall seek an asylum or shall be found within the territories of the other.

An offense committed in Japan by a British subject is not committed within the jurisdiction of Great Britain, within the meaning of the treaty.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 391.

Mr. Bingham to Mr. Fish.

No. 257.]

LEGATION OF THE UNITED STATES,
Tokai, August 23, 1875. (Received September 18, 1875.)

SIR: I have the honor to inform you that on the 14th instant, Hon. William A. Richardson and Commander R. F. R. Lewis, U. S. N., in the absence of the admiral commanding the United States Asiatic squadron, visited Hachoji, in the province of Musashi, about eighteen miles distant from Yokohama, south of the river Logo, and within the limits defined in the seventh article of the treaty of 1858 between the

United States and Japan. You will observe by the seventh article of the treaty that it is expressly provided that "in the open harbors of Japan, Americans shall be free to go where they please within the following limits: At Kanagawa, the river Logo (which empties into the bay of Yedo between Kawasaki and Shinagawa) and ten ri in any other direction." The language of this provision leaves no room to doubt that Americans are free to visit at pleasure any point between Kanagawa and the Logo River, which lies north thereof and is made the northern boundary of the treaty-limit. These gentlemen having visited the place named, in the exercise of their privilege, were on the 14th instant arrested in Hachoji by Japanese police and detained in custody during that night. On the next day they were conducted to Yokohama under guard of the police and handed over to the Japanese officers at the police-station, where they were held in custody until late in the evening of the 15th, when they were finally released upon assurances given by Mr. Elmer, the jailer of the United States consulate-general, that they would appear if required to answer any complaint that might be made against them. There is no pretense that there was any ground of complaint against these gentlemen save that they visited Hachoji, in the exercise of their treaty-privilege, without passes. It cannot be that any pass is needed to enable Americans to go where they please within the treaty-limits. Upon being officially informed on the evening of the 15th by Consul-General Van Buren of the wrongful arrest and detention of these gentlemen, on the 16th I addressed to his excellency the minister for foreign affairs a note stating the facts, and requesting his immediate consideration of the matter, to the end that the offender in the premises might be punished, and that such further action might be taken by his excellency's government as would assure the United States and the citizens thereof in future the full enjoyment of the privileges guaranteed by treaty, a copy of which communication is herewith. (Inclosure 1.)

On the 22d instant the minister for foreign affairs replied to my note, a copy of which reply is herewith. (Inclosure 2.)

You will observe that the minister clearly states that the two police officials who participated in this transaction at Hachoji and Yokohama ignorantly disobeyed orders, and did violence to the treaty-rights of the two citizens of the United States so wrongfully arrested, and that they, viz, Ito Shigehide and Yoshimura, have been dismissed because they acted without authority and in an unbecoming manner in the premises. The minister also states that he desires that the sincere regret of his government be communicated to Mr. Richardson and Commander Lewis "for the injustice and indignity put upon them," and adds that, to guard against a recurrence of such usage, the government has taken steps which it is hoped will prove effectual. This morning I addressed a communication to the minister for foreign affairs acknowledging the receipt of his dispatch of the 22d, a copy of which I have the honor to inclose. (Inclosure 3.)

You will observe that I have ventured in this reply to express the hope that the action taken by his excellency's government, if given to the public by due official notification, will be satisfactory to my Government. I make this suggestion to the minister because all duties enjoined by this government, so far as I am advised, are published in the official organ in the form of a notification or imperial decree. As this was the course pursued last year when the British minister complained of the wrongful arrest of a member of his escort within the British legation, I deemed it proper to call his excellency's attention to the precedent in that case, and to ask that it be followed in this instance, believing

that it was due alike to both governments that such public notification should be given, and that it would go far to prevent like violations of the rights of American citizens in the future.

Since writing the foregoing, I am in receipt of the reply of the minister for foreign affairs to my note of this morning, a copy of which reply I have the honor to inclose herewith. (Inclosure 4.) It seems to me that the action taken, as hereinbefore stated, and the notification to be given, as stated in inclosure 4, are all that could be asked of this government toward the redress of a wrong committed by its inferior officials in violation of instructions and in ignorance of their duties, and which wrong the government condemns and visits upon the officials who committed the same the punishment of dismissal from the public service.

Trusting that my action and the action of this government in relation to the wrongful arrest and detention of Mr. Richardson and Commander Lewis may meet your approval,

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 257.]

Mr. Bingham to Mr. Terashima.

No. 206.]

UNITED STATES LEGATION,
Tokai, August 16, 1875.

SIR: The consul-general of the United States at Kanagawa reports to me officially that the Hon. William A. Richardson, a citizen and judge of the United States, and Commander R. F. R. Lewis, of the United States Navy, and a citizen of the United States, visited, on Saturday last, the 14th instant, the town of Hachoji, in the province of Musashi, within the treaty-limits of Kanagawa, and were there arrested by two policemen and taken to the police-station, thence to a hotel, and detained; that they were detained overnight at the hotel under restraint, and ordered to proceed, on the 15th, to Yokohama in charge of a policeman. This order was executed by delivering these gentlemen over to the police at the police-station in Yokohama, where they were rudely held in custody, and detained until their release was demanded by Mr. Elmer, an American in the service of the United States consulate-general; which demand was at first refused, but finally graciously granted, upon condition Mr. Elmer would stand surety for the appearance of these parties upon the requirement of the police-officials. I am informed by the consul-general that no complaint was made against these gentlemen, save that they were traveling within treaty-limits without passes. I am also informed by the consul-general that Hachoji is within the treaty-limits as prescribed by the seventh article of the treaty made by Japan with the United States of America on the 29th of July, 1858, and ratified in 1860. If this be so, the proceeding is a flagrant breach of treaty, a wrong not only to two eminent and honorable citizens of my country, who bear high commissions in the public service, but also a wrong done to the United States.

I have the honor to request the immediate consideration of this grave matter of complaint, to the end that the offenders, if guilty, may be punished, and such further action may be had as will satisfy justice and assure to the United States and the citizens thereof all rights guaranteed by the subsisting treaty between the two countries.

I have the honor to be, sir, your obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENARI,
His Imperial Japanese Majesty's Minister for Foreign Affairs.

[Inclosure 2 in No. 257.—Translation.]

Mr. Terashima to Mr. Bingham.

DEPARTMENT FOR FOREIGN AFFAIRS,
Tokai, August 22, 1875.

SIR: I had the honor of receiving, on the 18th instant, your excellency's note of the 16th ditto, wherein you detail to me the facts in the matter of the stoppage, at the

village of Hachoji, in the province of Musashi, of two eminent American citizens, and of the further improper treatment to which they have been subjected.

Previous to the receipt of your note, I had heard of the occurrences through another source, and was very greatly surprised and annoyed at them, and directed Mr. Mori to call upon your excellency and ascertain the facts, at the same time that I issued instructions that strict inquiry into the matter should be made by the governor of Kanagawa, under whose jurisdiction the village of Hachoji is situated.

I have now the honor of making known to you the results of the inquiries that have been made.

It seems that the chief of police at the village of Hachoji, Ito Shigehide, who ordered the arrest of Captain Lewis and Mr. Richardson, was sadly mistaken in supposing Hachoji to be without the treaty-limits, his error being based on the fact that, as indicated by the posts along the road, Hachoji is eleven and one-half ri (28½ miles) from the Kanagawa Keucho, whereas the distance should have been calculated in a straight line.

Ito Shigehide had been recently appointed to the position he occupied at Hachoji, and pleads that he was unaware that foreigners were within their treaty-rights when sojourning in the village, and consequently deemed it his duty to ask the two gentlemen to produce their passes, and when they failed to do this, he summoned them to the police-court, and sent them the following day to Yokohama under escort of a policeman, still thinking he was merely performing his duty. And here, allow me to remark to your excellency, these two gentlemen were not detained at Hachoji; they requested to remain the night in the village and to proceed to Yokohama the next day. But this is only a trifling circumstance of the case.

Ito Shigehide has been found guilty in that he had failed to inform himself accurately of the treaty-limits, and that he had failed to show proper respect and consideration to Captain Lewis and to Mr. Richardson when these gentlemen had informed him of their names and positions, and in that he had ordered them to be conducted back to Yokohama by a petty police-officer, when they had expressed their readiness and willingness to quietly return at once. Ito Shigehide's conduct has been unwarrantable and rude. The policeman in Yokohama, Yoshimura, on the arrival at the police-station of these two gentlemen and of the letter from the chief of police at Hachoji, detained them unnecessarily long at the station-house, interrogated them as to their names and positions in a disrespectful and unbecoming manner, and appealed to the constable of the United States consulate for confirmation of their assertions, thereby subjecting them to fresh humiliation.

Your excellency will please observe that Mr. Elmer, the official in the United States consulate, was not called upon to stand surety for the appearance of these two gentlemen; he was merely called upon to corroborate their statements of themselves.

These two Japanese officials, Ito Shigehide and Yoshimura, have been dismissed from the service of the Japanese government; for, though they maintain they thought they were merely doing their duty, they have exceeded the power conferred upon them, and have acted unbecomingly toward two American gentlemen, even after they were made aware of their names and positions.

I hope your excellency will favor me by communicating to Captain Lewis and to Mr. Richardson the very sincere regret which is felt by our government for the injustice and indignity put upon them, and to beg them to believe that their treatment arose out of no desire to offend or embarrass, but out of ignorance, however unfortunate have been the consequences.

To guard against a recurrence of such usage as befell your two distinguished countrymen, the government has taken steps which it is hoped and deemed will prove effectual.

I hope the explanation I have here given you of the misconduct of the police officials will prove satisfactory and sufficient to both your excellency and the two gentlemen interested, to whom I request you to communicate the above.

With respect and consideration,

TERASHIMA MUNENORI,

His Imperial Japanese Majesty's Minister for Foreign Affairs.

His Excellency Honorable JOHN A. BINGHAM,

Envoy Extraordinary and Minister Plenipotentiary of the United States.

[Inclosure 3 in No. 257.]

Mr. Bingham to Mr. Terashima.

No. 213.]

UNITED STATES LEGATION,
Tokai, August 23, 1875.

SIR: It gives me pleasure to acknowledge the receipt of your excellency's communication of date 22d instant, in relation to the wrongful arrest and detention by

Japanese officials of Hon. William A. Richardson and Commander R. F. R. Lewis, when in the exercise of their guaranteed rights of travel and sojourn within the treaty-limits of Kanagawa. The action taken by your excellency's government in the premises, if given to the public by due official notification, will, I presume, satisfy my Government and the citizens of the United States that the rights guaranteed to them by treaty will hereafter be respected by all officials in His Imperial Japanese Majesty's service.

Although no mention is made in your excellency's note of the purpose of a public notification, I cannot doubt that your excellency will see in this instance quite as much occasion for such notification as was present for the public official notification which was given by your excellency's government on the 25th July, 1874, in the matter of the unlawful arrest within the British legation of a member of the legation-escort.

In that case it was deemed that the dignity and good faith of the empire required the notification, to the end that a like violation of public law might not be committed by officials of your excellency's government. In this case the notification seems to be required, to the end that the treaty-obligations to which the good faith of the empire is pledged to the United States and the citizens thereof may be respected hereafter by His Imperial Japanese Majesty's officials.

As I desire to communicate to my Government by the outgoing mail the action taken by your excellency's government in this matter, I will esteem it a favor if your excellency will inform me if the public notification will be given.

While it is apparent that such public official notification will be productive of much good, and will be a new assurance of the care your excellency's government takes to fulfill its treaty-obligations, it can give no offense and work no hurt to any one.

I have the honor to be, sir, your obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,
His Imperial Japanese Majesty's Minister for Foreign Affairs.

[Inclosure 4 in No. 257.—Translation.]

Mr. Terashima to Mr. Bingham.

FOREIGN OFFICE,

Токей, the 23d of the 8th month of the 8th year Meiji.

SIR: I have the honor to acknowledge the receipt of your excellency's letter under this date in reference to the stoppage, in the village of Hachoji, of Hon. William A. Richardson and Commander Lewis, United States Navy.

In reply, I have to state that the due official notification to the officials of all the provinces is soon to be issued by the government, to prevent a recurrence of such an unfortunate affair as befell your two distinguished countrymen; which steps, it is hoped and deemed, as mentioned in my letter of yesterday, will prove effectual, and satisfy your excellency's Government in the premises.

With respect and consideration,

TERASHIMA MUNENORI,

His Imperial Japanese Majesty's Minister for Foreign Affairs.

To His Excellency JOHN A. BINGHAM,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

No. 392.

Mr. Bingham to Mr. Fish.

No. 261.]

UNITED STATES LEGATION,
Токей, September 7, 1875. (Received October 7.)

SIR: Referring to my No. 257, of date August 23, 1875, in relation to the wrongful arrest and detention of the honorable William A. Richardson and Commander R. F. R. Lewis, United State Navy, by the police at Hachoji and Yokohama, I have the honor to inform you that on the 30th ultimo I received from the minister for foreign affairs the imperial

notification in relation thereto, and on the 31st the official translation thereof, a copy of which translation is herewith inclosed. (Inclosure 1.) This translation was promptly published by Sanjo Saneyoshi, the prime minister of His Majesty the Emperor, and has also appeared in the English journals of Yokohama. You will observe that the notification declares the right of foreigners to travel freely within treaty-limits; that the arrest of Commander Lewis and Mr. Richardson by the police at Hachoji was wrongfully made, inasmuch as that village is within the treaty-limits and the jurisdiction of Kanagawa ken; that the police officials acted in the premises in disregard of instructions given them by the government, and have therefore been dismissed from the service; and that instructions are directed to be given to the police to prevent the recurrence in future of like interference with the treaty-rights of foreigners.

On the 6th instant I addressed to his excellency the minister for foreign affairs a dispatch acknowledging the receipt of the notification and the official translation thereof, and expressing the hope that the same, together with his excellency's letter of the 22d ultimo, addressed to me on the same subject, would be satisfactory to my Government. A copy of my dispatch of the 6th instant is herewith, (inclosure 2,) and a copy of the letter of his excellency of the 22d ultimo was transmitted in my No. 257, as inclosure 2, to which I beg leave to refer.

Inasmuch as the minister for foreign affairs, in his letter of the 22d ultimo, requested that I should communicate the same to Commander Lewis and Mr. Richardson, on the 25th instant I forwarded a copy thereof to each of those gentlemen, and on the 30th ultimo I received from them a communication, under date August 28th, thanking me for the action taken by me, and expressing their entire satisfaction with the course pursued by the Japanese government in declaring the conduct of the police a violation of treaty guarantees, and making known the sincere regret of the government that such injustice had been done, and that such indignity had been put upon them. I have the honor to inclose a copy of the letter of these gentlemen.

It seems to me, in view of the fact that no special damage was done to the persons of the gentlemen arrested, that the prompt disavowal of the lawless acts of the police, their immediate dismissal from service, and the efficient action taken by the government to prevent such wrongful arrests in the future, are gratifying evidences of the purpose of this government to assure to all citizens of the United States, and to the citizens and subjects of other treaty-powers as well, the full enjoyment of their treaty-rights and privileges, and deserve the express recognition and approval of our Government.

Notwithstanding the clamor for satisfaction by persons not immediately concerned nor authorized to speak for Japan or for either of the treaty-powers, I am of opinion that no further satisfaction than has been so promptly given in this case could be demanded, save upon the hypothesis that a government is to be punished for every lawless act of its petty officials, committed in ignorance of duty and in violation of express instructions. The adoption of any such rule would surely imperil the peace of nations and insult the enlightened judgment of mankind.

I respectfully submit the action taken in the premises by me and by this government to your consideration, and beg leave to express the hope that both may meet your approval.

I am, &c.,

JOHN A. BINGHAM.

[Inclosure 1 in No. 261.—Translation.]

NOTIFICATION, No. 155.

To Shi, Fu, and Ken :

While foreigners are guaranteed the right by the treaty to travel freely within the treaty-limits, on the 15th instant Commander Lewis, United States Navy, and Hon. Mr. Richardson, a judicial officer of the United States, were stopped and treated improperly by the police-officers at the village of Hachoji, under the jurisdiction of the Kanagawa ken, where the same unfortunate occurrence took place upon an Englishman on the same day. These acts of misconduct arose out of ignorance on the part of the police officials of the instructions given by the government. They have been dismissed, therefore, from the government services.

It is hereby directed that instructions be given to those in the duty of police, so that the recurrence of such unbecoming conduct shall not take place.

SANJO SANEYOSHI,
Daijo Daijin.

THE 30TH DAY OF THE 8TH MONTH, 8TH YEAR OF MEIJI, (*August 30, 1875.*)

[Inclosure 2 in No. 261.]

Mr. Bingham to Mr. Terashima.

UNITED STATES LEGATION,

Tokai, September 6, 1875.

SIR: I have the honor to acknowledge the notification, and the official translation thereof, issued by your excellency's government, under date of the 30th ultimo, in the matter of the wrongful arrest and detention of the Hon. William A. Richardson and Commander R. F. R. Lewis, United States Navy, and trust that the same, together with your excellency's letter of the 22d ultimo on the same subject, will be acceptable and satisfactory to my Government.

It gives me pleasure to inclose herewith a copy of the letter of the Hon. Mr. Richardson and Commander Lewis, acknowledging the receipt of the letter addressed to me by your excellency, of date 22d August last, to whom the same was communicated by me in compliance with your excellency's request. Your excellency will observe that these gentlemen express their entire satisfaction with the action taken by your excellency's government in the premises.

I deeply regret the appearance of your dispatch of the 22d ultimo in the Japan Herald of Saturday, the 28th ultimo, was made the occasion of the strictures of the editor thereon, which seem to me alike unjust to your excellency's government and to myself; and allow me to add that I am informed that these strictures are deemed offensive and unjust by Mr. Richardson and Commander Lewis.

Referring to the notification of the 30th ultimo, it is therein declared that "it is hereby directed that instructions be given to those in the duty of the police" to prevent the recurrence of such offensive conduct. May I ask to be specifically informed by a copy thereof what the instructions so ordered to be given are? I doubt not that the instructions so directed to be given are to the effect that the treaty-rights of all foreigners to freely travel within treaty-limits shall be respected hereafter by all Japanese officials and others.

I have the honor to be, sir, your obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,
Minister for Foreign Affairs.

[Inclosure to inclosure 3 in No. 261.]

*Messrs. Lewis and Richardson to Mr. Bingham.*YOKOHAMA, JAPAN, *August 28, 1875.*

DEAR SIR: Your letters of the 25th instant, addressed to us respectively, inclosing copies of a communication from His Imperial Japanese Majesty's minister for foreign affairs, in relation to the unwarrantable arrest and detention of ourselves at Hachoji, while on a journey to that and other places, within the treaty-limits, wherein citizens of the United States "are free to go wherever they please," on the sole ground that foreigners had no right to be there, have been duly received. Please accept our

thanks for the prompt and energetic manner in which you have presented to the Japanese government the violation, by its subordinate officers, of its treaty obligations with our country, and of our rights and privileges as citizens of the United States. You will please to communicate to His Imperial Majesty's minister for foreign affairs, if you think proper, our entire satisfaction, so far as we are personally concerned, with the course pursued by the Japanese government in acknowledging the violation of the treaty, expressing regret at our arrest, and removing the subordinate officers by whom the offense was committed.

We are, with great respect and esteem, your obedient servants,

R. F. R. LEWIS,

United States Navy.

WILLIAM A. RICHARDSON.

Hon. JOHN A. BINGHAM,

Envoy Extraordinary and Minister Plenipotentiary of the United States, Tokei.

No. 393.

Mr. Bingham to Mr. Fish.

No. 264.]

UNITED STATES LEGATION, JAPAN,
Tokei, September 8, 1875. (Received October 7.)

SIR: I have the honor to report the arrival in this capital of Brevet Major-General Upton, Brevet Brigadier-General Forsyth, and Brevet Major Sanger, United States Army, under commission to examine and report upon the military service in Japan and other countries in the East and in Europe.

General Upton handed me your circular of the 24th of June last, commending him to the diplomatic and consular officers of the United States.

In accordance with your instructions, I have extended to these gentlemen due courtesy, and have presented them to the Japanese minister of war.

To-day they were honored by a general review of the troops of the empire in the capital.

It gives me pleasure to say that these gentlemen have been most cordially received by this government.

I am, &c.,

JNO. A. BINGHAM.

No. 394.

Mr. Bingham to Mr. Fish.

No. 267.] •

UNITED STATES LEGATION, JAPAN,
Tokei, September 15, 1875. (Received October 21.)

SIR: In my No. 264, of date the 8th instant, I had the honor to acquaint you with the arrival in Japan of Major-General Upton and his two associates, under a commission to inquire into and report upon the army tactics, &c., of this empire, and also of other countries, and of their cordial reception. Upon their departure for China, on the 10th instant, at their request I addressed to his excellency the minister for foreign affairs a dispatch acknowledging the courtesies extended to them by His Majesty the Emperor, and by His Majesty's minister of war, a copy of which I have the honor to inclose.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 267.]

*Mr. Bingham to Mr. Terashima.*UNITED STATES LEGATION,
Tokai, September 10, 1875.

SIR: I have the honor to acknowledge your excellency's dispatch of yesterday, and through your excellency beg leave, on behalf of General Upton, General Forsyth, and Major Sanger, to present their thanks to His Majesty the Emperor for his proffer made through your excellency to give them audience as I had the honor to request, and also to communicate their regret that they could not delay their journey to enable them to meet and pay their respects to His Majesty in person, as they greatly desired.

I am also pleased to communicate to your excellency that these gentlemen desire to make their grateful acknowledgments to His Majesty's minister of war for the courtesy shown them during their short stay, and the facilities afforded them for examining the drill, tactics, &c., of His Majesty's army.

I am, &c., sir, your obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,
Minister for Foreign Affairs.

 No. 395.
Mr. Fish to Mr. Bingham.

No. 174.]

DEPARTMENT OF STATE,
Washington, September 20, 1875.

SIR: Your dispatch No. 254, dated August 4, upon the subject of the violation by Americans of the regulations of Japan respecting the hunting of sea-otters in the waters of its northern coasts, and communicating information relative to the hazards run by such adventurers, has been received.

In reply to your suggestion that it might be well to issue a proclamation of warning to all registered American vessels, I have to state that, however irregular, or even illegal, the prosecution of this traffic may be, it does not appear that the matter is of sufficient gravity to call for an executive proclamation. A semi-official notice of caution may be prepared and published.

I am, &c.,

HAMILTON FISH.

 No. 396.
Mr. Fish to Mr. Bingham.

No. 178.]

DEPARTMENT OF STATE,
Washington, September 28, 1875.

SIR: Your No. 253, containing certain fishing regulations determined on by the Japanese government, and sent to you for promulgation, has been received.

You state that it appears to you desirable that the regulations should be more definite as respects the precise distance within which fishing is prohibited and the shores to which the prohibition applies; and you also direct my attention to the second and third regulations.

I agree in your conclusion that the distance and area within which fishing is prohibited is indefinitely stated. It would seem better to define the shores which are affected thereby, and to substitute the marine league in place of a cannon-shot as the limit of the jurisdictional waters of Japan.

The second and third regulations are also open to criticism. The measures therein provided for against offending vessels should be confined strictly to the waters over which Japan has exclusive jurisdiction.

It is further provided in the second regulation that a vessel may be warned to depart when the Japanese officials have reason to believe that she is violating, or intends to violate, the prohibition referred to. This would confer upon the Japanese officials a discretion and authority which might readily lead to abuse.

The regulations appear to be loosely drawn, and it is not unlikely that the objectionable features may be removed after a proper representation on the question.

I am, &c.,

HAMILTON FISH.

LIBERIA.

No. 397.

Mr. Turner to Mr. Fish.

No. 168.]

LEGATION OF THE UNITED STATES,
Monrovia, May 30, 1875. (Received July 31.)

SIR: I have the honor to inform the Department that, on the first Tuesday in the present month, the regular biennial election for president, vice-president, and members of the national legislature was held throughout the Republic of Liberia. The candidates for the presidency were Ex-President James S. Payne and A. W. Gardner, the present vice-president of Liberia.

The delay in reporting the election to the Department has been caused by the length of time necessarily employed in receiving the returns at Monrovia, and in procuring reliable statements on which to base this dispatch. At the present writing it appears to be generally understood and accepted by the people that the successful candidate is Ex-President James S. Payne. However, the official promulgation of the result of the election cannot occur, under the constitution, until the legislature shall have assembled in December, 1875, when the vote of the people must be opened and counted in the presence of that branch of the government by the secretary of state, and the result of the election thereafter officially declared by the legislature. I have thus far been unable to procure for the information of the Department platforms of the principles represented by the two political parties. Therefore, it may not be amiss for me to state that persons of both parties have remarked in my presence that there is little if any choice between the candidates for the presidency; yet, the political supporters of each seemed enthusiastic, and determined if possible to elect their candidate.

Mr. Payne was during two years president, and at the expiration, in January, 1876, of the official term of the present administration, Mr. Gardner will have been during four years vice-president of Liberia. I

have heard it said by those whose knowledge and experience in the affairs of the country would seem to entitle their opinions to respect, that the administration of Mr. Payne made few, if any, progressive changes in the conduct of matters of public interest and of government. The political opponents of Mr. Payne are said to have made frequent allusions, during the campaign, to the fact that the administration of which Mr. Payne was the head, issued what is known in this country as the debenture currency, and thereby increased the depreciation of the national finances. The debenture currency consisted in a kind of government paper, issued without coin-base, each note of which promised payment in gold to the holder, to the amount of the full face-value thereof, on the presentation of the same at the treasury of Liberia. This debenture paper was called in by the present administration, and a portion of the money obtained by the recent loan was used in the redemption thereof. Hence, there is at this time no debenture currency in circulation.

The present administration has saved to the country all that could be reached by the government of the loan contracted in England by the administration of the late Mr. Roze, paid sums of money on the national debts abroad, thus causing the country to expect to have regard extended from abroad to the disposition to honorably cancel the national debts whenever in the future the country may find itself in possession of an improved state of national finances; and to a great extent recovered the popular feeling from that unfortunate social and political commotion and partial disintegration into which society was thrown by the revolutionary occurrences of 1871. But these results of the administration with which Mr. Gardner is identified are generally credited to the sagacity and superior statesmanship of President Roberts, rather than to any other member or branch of the government as at present administered.

In making the above extract from the presidential experiences of the distinguished gentlemen who were candidates at the recent election for the presidency of their country, I have indulged the hope of being able to assist the Department in the appreciation of what is meant by those persons alluded to above as finding little if any choice between the candidates, and have, therefore, endeavored simply to follow the aggregate expressed opinion in this country as it has impressed me from time to time.

Mr. Payne and Mr. Gardner were born in the State of Virginia, and emigrated from the United States to Liberia about fifty years ago. Mr. Payne was born in the year 1815, and is therefore aged about sixty years; having come to this country during his boyhood, he received a somewhat liberal training in the mission schools of Liberia, then taught under the auspices of the Methodist Episcopal Church of the United States. He chose for his profession the position of clergyman in the Methodist Episcopal Church of Liberia, and is said to have performed commendable service as a clergyman; he at present enjoys the reputation of being the most eloquent doctrinal preacher identified with the church in Liberia. As a statesman he is thought to rank with the foremost of his countrymen; he is said upon one occasion to have succeeded in competitory engagement with much of the political talent and ability of Europe for an award offered for the most ably written and best essay on the economy of government. His reputation is that of an honest man, of mature and generally sound judgment, possessing a firmness of character that, when opposed in matters of patriotism or of conviction, is said to have been known to become self-poised and tend toward obstinacy. However, Mr. Payne has often expressed himself to me as

being in favor of such economical reforms as are at once best adapted to the tastes and necessities of his countrymen, and of which the Liberian government is susceptible in her present unhappy financial and industrial prostration.

My personal intercourse with Ex-President Payne has been of an agreeable character; I have found him an affable gentleman of dignified bearing. He will, I have no doubt, have to encounter many perplexing problems of government, but I sincerely hope that his long identity and experience with public men and matters of government in this country has qualified him to know the wants of his people and to recognize the means of placing this struggling republic upon the high-road to successful development.

I have, &c.,

J. MILTON TURNER.

No. 593.

Mr. Turner to Mr. Fish.

No. 178.]

LEGATION OF THE UNITED STATES,
Monrovia, Liberia, September 7, 1875. (Received Oct. 20.)

SIR: I have the honor to inform the Department that an outbreak has occurred at Cape Palmas, the serious nature of which forbodes disturbance to the quiet of this republic. The Grebos, a tribe of Africans numbering about 30,000 souls, have declared war against Liberia, and are under arms and strongly intrenched at Cape Palmas and along the Cavalla River, a distance of thirteen miles southeast by east from Cape Palmas, to a point occupied by the American Episcopalian mission for schools and religious purposes. The government has issued a call for troops to proceed without delay to Cape Palmas, and give relief to the Liberians, citizens of that place, who appear to have been driven from their homes and farms for a distance of about seven miles around, to concentrate their small force at the town of Cape Palmas, immediately upon the sea-shore, where they are at present within hastily-constructed works, endeavoring to maintain their position until the arrival of succor from other sections of the republic.

About thirty days, more or less, have elapsed since the government of Liberia thought it advisable to send Ex-president and President-elect James S. Payne as commissioner to the Grebo tribe of Africans at Cape Palmas, for the purpose of learning the most satisfactory manner in which it may be possible mutually to settle the long series of complaints alleged by that tribe against Liberia.

The errand of the commissioner has not resulted happily enough to secure peace. On the contrary, the President informed me a short time since that that officer, in his communications to the government of the republic, regards an immediate war with the Grebos as inevitable. From the earliest settlement of Cape Palmas by American colonists, under the auspices of what was known as the Maryland Colonization Society, this Grebo tribe has evinced a restless dissatisfaction that, after one or two appeals to arms, forced the Maryland colony to annex itself to the Republic of Liberia.

The annexation of the Cape Palmas, or Maryland, colony to the republic was consummated in April, 1857, since which period the government of Liberia has labored with singular abortiveness of purpose

for the settlement of the perplexing question of the right of territorial possession and jurisdiction at that point of the republic, as that question existed and was maintained between the Grebo tribe and the first American settlers at Cape Palmas, and as that question was transferred by those settlers through annexation to the Republic of Liberia. Having failed in the recent conference with Commissioner Payne to reach terms for the satisfactory adjustment of the existing differences, it appears that the Grebo tribe decided to appeal to arms, and wring from Liberia forcibly a concession of that territory, the right to which the Grebos claim never to have ceded to any one. On the other hand, the Liberians claim to have acquired the right to the disputed territory by treaty and purchase, entered into with the Grebos by the first American settlers, and by the annexation of April 1857. It seems, therefore, reasonable to expect in the future a somewhat vexatious discussion between the Liberian government and the Grebo tribe, arising from the midst of circumstances strikingly similar, and leading perhaps to somewhat similar results, to those circumstances and results which now encompass the long dispute and difficulty so unhappily existing between this government and the Vey tribe of Africans, commonly known as the "Northwestern-boundary-claims" difficulty, and to which passing allusion was made in my No. 143. It seems proper that I should allude to an impression that obtains here to a considerable extent, viz: During a recent conversation the President, while referring to the probable war with the Grebo tribe, expressed the conviction that owing to a kind of military training which he said was introduced by the late Bishop J. G. Auer into the Grebo schools of the American Episcopal mission at Cape Palmas, the Grebos have been made proficient in the use of artillery and other fire-arms, and are therefore a formidable foe, tolerably versed in the arts of war. The mission referred to is an important and useful American interest of long standing in Liberia. I therefore felt a desire to know in what direction the President is inclined to attach blame for the military knowledge obtained by the young Grebo students, members of the Episcopal mission schools. He proceeded to state, without being requested, that, although those Episcopal schools situated among the Grebos have for some time combined military training with other instruction, it was not done without the knowledge of the government of Liberia, and he seem inclined in that conversation to attach more importance to the circumstance that President Roberts had suffered the young Grebo students to receive such instruction without remonstrance than to what he considered the fact that the schools have been the direct or indirect means of imparting such instruction to the tribe. It is well to remark here that a gentleman eminent in the Episcopalian ministry of the United States has recently arrived here for the purpose of engaging in active missionary labor, who assures me that military training has not at any time formed part of the course taught in the Episcopalian mission schools at Cape Palmas or at any other point of this republic; however, I am unable at present to venture an opinion as to the truth or error of these expressions. Albeit, I have discovered that there exists among several of the African tribes, with whose habits and traditions of government I have become somewhat acquainted, a rule making it impossible for any king or chief of a tribe to enter into any compact, agreement, or treaty, of whatever nature, by means of which the lands owned by the tribe may be permanently alienated. When we reflect that the farms are all planted, worked, and the crops garnered and shared in common; that the houses are built

and repaired on a day, or at a time set apart for the purpose, by the allied or consociate labor of the entire community of each tribal town, we are, perhaps, better able to understand how the land itself is also the property of a common ownership; which ownership the tribal traditions render perpetual, and undertake to enforce the perpetuation thereof by making the title non-transferable. Hence, no individual or collective power within the tribe, even though it be kingly authority itself, is regarded by the people of the tribe as being sufficient to make permanent cession of the tribal lands. The tribal lands being considered the rightful inalienable inheritance of their posterity, held as a thing in trust for generations yet unborn, it would indeed be difficult to conceive of any cause for which an African tribe would contend with greater pertinacity than for that of conducting the unbroken descendency of their lands to their posterity. I have thus preferred to state what seems to me to be the root of the present misunderstanding, that the Department may better appreciate the necessity of the Republic of Liberia to defend with arms against a tribe with whom she is in treaty relations a territory which she claims to have acquired both by treaty stipulations and by purchase.

It would seem quite probable that, although the Grebo tribe may be vanquished in the field, it may prove quite difficult by any coercive policy to eradicate or even to diminish the force of a tribal tradition that it has been the fixed custom and practice of the tribe to observe, perhaps, for many centuries, and for which they at present show willingness and determination to die, if necessary. It is an unhappy circumstance that the policy of the republic during the years of her existence, in the midst of the very tractable tribes of Africans within Liberian boundaries, and who vastly outnumber her civilized citizens, has not been sufficiently assimilative to have so intermixed the interests of these two classes of her citizens as to be able now to avoid violent contact with the traditions of a tribe so powerful and influential as is the Grebo tribe. For twenty years, or thereabouts, those American Episcopalian schools have been taught upon a very commendable system among the Grebo tribe. The result is that several hundred of the young Grebo men, and about as many of their young women, have acquired a fair common-school training, while quite a number are classical scholars. Some are able to read the Holy Scriptures in the original tongues, and, in some instances, to translate them into the Grebo language, which has been reduced to grammar.

Now, it seems plain that, as this kind of intelligence increases and spreads within the tribe, the people thereof will become better able to know and appreciate their just rights, and to form combinations for the resistance to wrongs perpetrated from without the tribe. It would therefore seem "a far more excellent way" should the probity of Liberian statesmen adopt toward the aborigines of the country a policy the friendships and wisdom of which would be capable of inducing at least the intelligence of the tribes to enter and become an integral of the sovereign state of Liberia, and assist in bearing the responsibilities of the nation. It seems that some such policy would at once obviate many perplexing difficulties that may hereafter spring up to harass and trouble the republic, and accomplish a grand effectual act in the laudable work for which these colonies evidently were planted upon the borders of this unknown land, viz, the evangelization and civilization of this portion of this vast continent.

I have, &c.,

J. MILTON TURNER.

No. 399.

Mr. Turner to Mr. Fish.

No. 180.]

LEGATION OF THE UNITED STATES,
Monrovia, September 13, 1875. (Received October 21.)

SIR: I have the honor to report, for the information of the Department, that a well-authenticated statement has this morning reached Monrovia, to the effect that Cape Palmas was assailed simultaneously at four different points on the 8th or 9th day of this month. The attacking party was composed from the Grebo tribe of Africans. After a determined contest, lasting from 7 o'clock a. m. until 3 o'clock p. m., the Grebos were repulsed, with considerable loss, at all points. The loss of the Liberian troops consists of six killed and an unknown number wounded. The Grebos are said to have been armed with excellent Snyder rifles. The contest on the part of the besieged Liberians was principally conducted with artillery; they were, therefore, able to hold the aborigines, who brought no artillery into the engagement, at considerable distance from the Liberian lines. About two hundred and fifty infantry troops and two pieces of artillery, six-pounders, were dispatched from this point on yesterday to re-enforce the garrison at Cape Palmas. The secretary of state accompanied the expedition, and will participate in the campaign as captain of a company of Monrovia militia. President Gardner has been absent from the capital nearly two weeks, endeavoring to forward troops from his home at Grand Bassa. His return is momentarily expected. The alacrity with which this country responds to the call for troops presents a degree of patriotism highly commendable. It is commonly believed here that the Grebo tribe is able to raise from 5,000 to 7,000 fighting-men, albeit, however, I have no doubt the absence of a sufficient supply of proper arms will prevent their making so large a number of warriors available in the field at any one time. When assembled at their rendezvous, the Liberian troops, judging from present appearances, will probably be found to number 1,000 tolerably well-armed men, whose artillery-arm is composed of very fair field-pieces, manned in some instances by men of some experience in war.

I have, &c.,

J. MILTON TURNER.

No. 400.

Mr. Cadwalader to Mr. Turner.

No. 101.]

DEPARTMENT OF STATE,
Washington, October 21, 1875.

SIR: Your dispatch No. 178, of the 7th ultimo, concerning a declaration of war against the Liberian government by the Grebo tribe of Africans, has been received and read with interest. It is regretted by this Government that the mission of Commissioner Payne failed to secure an amicable adjustment of the question in dispute between the Grebo tribe and the Liberian government, and that hostilities were imminent.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 401.

Mr. Fish to Mr. Turner.

No. 103.]

DEPARTMENT OF STATE,

Washington, October 27, 1875.

SIR: Your dispatch No. 180, of the 13th ultimo, has been received. It relates to an attack of a savage tribe on Cape Palmas. Although you represent that the attack had been repulsed, it is not unlikely that it may have been or may be renewed. The Secretary of the Navy has consequently been requested to order a man-of-war to that quarter, as it is understood that there are citizens of the United States residing at Cape Palmas.

I am, &c.,

HAMILTON FISH.

MEXICO.

No. 402.

Mr. Foster to Mr. Fish.

No. 207.]

LEGATION OF THE UNITED STATES,

Mexico, November 16, 1874. (Received December 19.)

SIR: The Mexican Congress, at the last session, submitted to the States of the Republic a series of amendments to the federal constitution creating a senate. These amendments having been ratified by the legislatures of a large majority of the States, they were, by instructions of the Congress, proclaimed by the President as a part of the federal constitution, and were on yesterday publicly acknowledged in this capital by the military and civil authorities, with the customary ceremonies. The first senate will assemble November 16, 1875.

I transmit herewith a copy of these amendments; also a translation thereof.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 207.—Translation.]

Amendments to the Mexican constitution establishing a senate.[From the "*Diario Oficial*," November 15, 1874.]

Sebastian Lerdo de Tejada, Constitutional President of the United Mexican States,
to all their inhabitants, greeting:

Know ye that the Congress of the union has decreed the following:

The Congress of the union, in the exercise of the faculty which the 127th article of the federal constitution grants to it, declares that the amendments which are hereafter expressed are approved by a majority of the legislatures of the States, and are a part of the said constitution. These amendments shall take effect on the 16th of September of the year 1875.

TITLE III.

Section first.—Of the legislative power.

ARTICLE 51. The legislative power of the nation is vested in a general Congress which shall consist of two chambers—one of the deputies, the other of the senators.

Paragraph I.—Of the election and installation of Congress.

ARTICLE 52. The chamber of deputies shall be composed of representatives of the nation, elected, in their totality, every two years by the Mexican citizens.

ARTICLE 57. The duties of deputy and senator are incompatible with any commission or employment whatever of the union for which a salary is received.

ARTICLE 58. The deputies and senators proper, from the day of their election up to the day in which their trust is concluded, cannot accept any commission or employment by appointment of the federal executive, for which salary is received, without the previous license of their respective chamber. The same requisite is necessary for deputy and senator substitutes, when in the exercise of their functions.

A. The senate shall be composed of two senators for each State, and two for the federal district. The election of senators shall be indirect in the first grade. The legislature of each State shall declare elected whoever shall have obtained an absolute majority of the votes cast, or it shall elect from those who shall have obtained a relative majority in the manner which the electoral law prescribes. For each senator proper there shall be elected a substitute.

B. One-half of the senate shall be renewed every two years. The senators appointed in the second class shall vacate their seats at the end of two years, and in the succeeding two years, the earliest elected.

C. The same qualification shall be required for a senator as for a deputy, excepting that of age, which shall be thirty years, completed on the day of the opening of the sessions.

ARTICLE 59. The deputies and senators are inviolable for their opinions expressed in the discharge of their trust, and shall never be called to account for them.

ARTICLE 60. Each chamber shall decide with regard to the election of its members, and determine the doubts that may occur regarding them.

ARTICLE 61. The chambers can neither open their sessions nor exercise their duties without the presence, on the part of the senators, of two-thirds, and on the part of the deputies of one-half of the total number of their members; but those present of either body can assemble on the day fixed by law, and compel the attendance, under the penalties which the same law prescribes, of the absent members.

ARTICLE 62. Congress shall hold each year two ordinary sessions: The first, which can be prolonged for thirty working-days, shall commence on the 16th of September, and terminate on the 15th of December; and the second, which can be prolonged for fifteen working-days, shall commence on the 1st of April and terminate on the last day of May.

ARTICLE 64. Every resolution of Congress shall have the character of a law or decree. Laws and decrees shall be communicated to the executive, signed by the presidents of both chambers and by a secretary of each one of them, and shall be promulgated in this form: "The Congress of the United Mexican States decrees." (Text of the law or decree.)

Paragraph II.—Of the introduction and passage of laws.

ARTICLE 65. The right of initiating laws or decrees belongs—

I. To the President of the union.

II. To the deputies and senators of the general Congress.

III. To the legislatures of the States.

ARTICLE 66. The initiatives presented by the President of the republic, by the legislatures of the States, or by deputations from the same, shall pass immediately to a committee. Those which the deputies or senators may present shall be subject to the action which the rules of debate prescribe.

ARTICLE 67. Every project of law or decree which shall be rejected by the chamber in which it originated, before passing to a revision, cannot be presented again in the sessions of the year.

ARTICLE 69. The day before the last of the first period of sessions, the executive shall present to the chamber of deputies the estimates of the coming year and the accounts of the last year. Both shall pass to a committee of five representatives appointed on the same day, to whom shall belong the duty of examining said documents, and presenting a report on them at the second session of the second term.

ARTICLE 70. The enactment of laws and decrees can commence indiscriminately in either house, with the exception of projects which relate to loans, taxes, or imposts,

or the recruiting of the troops, all which must be discussed first in the chamber of deputies.

ARTICLE 71. Every project of law or of decree, whose resolution may not belong exclusively to one of the two chambers, shall be discussed successively in both, the rules of debate being observed in the form, intervals, and mode of proceeding in the discussions and votes.

A. A project having been approved in the chamber in which it originated shall pass for discussion to the other chamber. If this chamber shall approve it, it shall be remitted to the executive, who, if he shall have no observations to make, shall publish it immediately.

B. Every project not returned with observations to the chamber of its origin within ten working-days shall be regarded as approved by the executive power, unless, during this period, Congress shall have closed or suspended its sessions; in which case, the return must be made on the first working-day after it shall have re-assembled.

C. The project of law or decree rejected in whole or in part by the executive must be returned with his observations to the chamber of its origin. It must by it be discussed *de novo*, and if it be confirmed by an absolute majority of votes, it shall pass again to the revising chamber. If by it it be sanctioned by the same majority, the project is a law or decree, and shall return to the executive for his promulgation. The votings upon a law or decree shall be *viva voce*.

D. If any project of law or decree be rejected *in toto* by the chamber of revision, it shall return to the one of its origin with the observations which the former may have made upon it. If, being examined *de novo*, it be approved by an absolute majority of the members present, it shall return to the chamber which rejected it, which shall take again into consideration, and if it be approved by the same majority, it shall pass to the executive, to be acted on according to the provisions of Part A. But if it be rejected, it cannot be presented again until the following sessions.

E. If a project of law or decree be rejected only in part, or modified or amended by the revising chamber, the new discussion in the chamber of its origin shall relate solely to the part rejected, or to the amendments or the additions, without being able to alter in any manner the approved articles. If the additions or amendments made by the revising chamber be approved by an absolute majority of the votes present in the chamber of its origin, the entire project shall pass to the executive for action according to the provisions of Part A. But if the additions or amendments made by the revising chamber be rejected by a majority of votes in the chamber of its origin, they shall return to the former, in order that it may take into consideration the reasons of the latter, and if by an absolute majority of the votes present said additions and amendments be rejected in this second revision, the project in that part which may have been approved by both chambers shall pass to the executive for action, according to the provisions of Part A.

But if the revising chamber, by an absolute majority of the votes present, insists upon said additions or amendments, the entire project cannot again be presented until the following sessions, unless both chambers resolve, by an absolute majority of its members present, that the law or decree be issued only with articles approved, and that those added or amended be reserved for examination and vote in the following sessions.

F. In the interpretation, amendment, or repeal of laws or decrees, the same rules shall be observed that are established for their enactment.

G. Both chambers shall sit in the same place, and they cannot be removed to another without they before agree in the removal, and in the time and manner of effecting it, designating the same point for the re-assembling of both. But if the two agreeing in the removal differ as regards the time or place, the executive shall settle the dispute by selecting one of the points in question. Neither chamber shall suspend its sessions for more than three days without the consent of the other.

H. When the general congress shall be assembled in extraordinary sessions, it shall be occupied exclusively with the object or objects designated in the call; and if these shall not have been completed by the day in which the ordinary sessions should be opened, the former shall close nevertheless, reserving the pending points to be acted upon in ordinary sessions. The executive of the union cannot make observations upon the resolutions of Congress when it prolongs its sessions or exercises the functions of an electoral or judicial body.

Paragraph III.—Of the faculties of the general Congress.

ARTICLE 72. Congress has the power—

III. To form new States within the limits of those existing, it being necessary for this purpose—

First. That the fraction or fractions which ask to be erected into a State have a population of at least one hundred and twenty thousand inhabitants.

Second. That it be established before Congress that they have the elements sufficient to maintain their political existence.

Third. That the legislature of the States whose territory is in question may be heard upon the propriety or impropriety of the erection of a new State; they being obliged to make their report within six months, counted from the day on which is remitted to them the relative communication.

Fourth. That likewise the executive of the federation be heard, who shall send his opinion within seven days, counted from the date on which it may have been asked.

Fifth. That the election of the new State may be voted by two-thirds of the deputies and senators present in their respective chambers.

Sixth. That the resolution of Congress be ratified by the majority of the legislatures of the States, upon examination of the copy of the record; *Provided always*, That the legislatures of the States whose territory is in question may have given their consent.

Seventh. If the legislatures of the States whose territory is in question shall not have given their consent, the ratification of which the above part speaks must be made by two-thirds of the legislatures of the other States.

A. The exclusive faculties of the chamber of deputies, are—

I. To constitute itself an electoral college in order to exercise the powers which the law may designate respecting the appointment of the constitutional President of the republic, magistrates of the supreme court, and senators of the federal district.

II. To examine and decide upon the resignations which the President of the republic and the magistrates of the supreme court of justice may make. The same power belongs to it in treating of the leaves of absence requested by the President.

III. To supervise, by means of an inspecting committee of its own body, the exact discharge of the functions of the chief auditor's office.

IV. To appoint the chiefs and other employés of the same.

V. To constitute itself a jury of impeachment for the high functionaries of which the article 103 of the constitution treats.

VI. To examine the account which the executive should annually present to it; to approve the annual estimate of expenses; to initiate the taxes which, in its judgment, ought to be decreed in order to cover the same.

B. The exclusive powers of the senate are—

I. To ratify the treaties and diplomatic conventions which the executive may make with foreign powers.

II. To ratify the appointments which the President of the republic may make, of ministers, diplomatic agents, consuls-general, chief clerks of the treasury, colonels, and other chief officers of the army and national navy, according to the terms which the law may designate.

III. To authorize the executive to permit the passage of the national troops beyond the limits of the republic, the passage of foreign troops through the national territory, and the station of squadrons of other powers for more than one month in the waters of the republic.

IV. To give its consent in order that the executive may make disposition of the national guard, out of their respective states and territories, determining the force necessary.

V. To declare when the constitutional, legislative, and executive powers of a State may have disappeared, that the exigency of appointing for it a provisional governor has arrived, who shall call for elections, conformably to the constitutional laws of the same state. The appointment of a governor shall be made by the federal executive, with the approbation of the senate, and, in its recesses, with that of the permanent committee. Said functionary cannot be elected constitutional governor in the elections which may take place in virtue of the call which he may have issued.

VI. To determine the political questions which may arise between the powers of a State, when any of them may apply with this end to the senate, or when, by reasons of said questions, the constitutional order may be interrupted, a conflict of arms intervening. In this case the senate shall dictate its resolution, being subject to the general constitution of the republic and to that of the state.

The law shall regulate the exercise of this faculty and that of the former.

VII. To constitute itself a jury of sentence conformably to article 105 of the constitution.

C. Each one of the two chambers has the power without the intervention of the other—

I. To dictate economic resolutions relative to its interior management.

II. To communicate between each other and with the executive of the union by means of committees of its own body.

III. To appoint its secretaries, and to establish the internal regulations of the same.

IV. To issue the calls for extraordinary elections for the purpose of filling the vacancies of their respective members.

Paragraph IV.—Of the permanent deputation.

ARTICLE 73. During the recesses of Congress, there shall be a permanent committee composed of twenty-nine members, of whom fifteen shall be deputies and fourteen senators, appointed by their respective chambers, the evening before the closing of the sessions.

ARTICLE 74. The powers of the permanent committee are—

II. To determine by itself, or at the proposal of the executive, consulting him in the first case, the convocation of Congress, or of one chamber only, in extraordinary sessions, the vote of two-thirds of the individuals present being necessary in both cases. The call shall designate the object or objects of the extraordinary sessions.

Article 103 of the constitution shall remain in these terms :

"The senators, the deputies, the individuals of the supreme court of justice, and the secretaries of state are responsible for the ordinary offenses which they may commit during the term of their office, and for the crimes, faults, and omissions of which they may be guilty in the exercise of this same trust. The governors of the states are likewise responsible for infractions of the constitution and the federal laws. So also is the President of the republic ; but during the term of his office he can only be accused for the crimes of treason against the country, express violation of the constitution, attack upon the electoral franchise, and grave crimes of the common order."

There shall be added to the former article—103—of the constitution the following :
"The high functionaries of the federation have no claim to constitutional right for the official crimes, faults, or omissions of which they may be guilty in the discharge of an employment, office, or public commission which they may have accepted during the period in which, conformably to the law, that right may be enjoyed. The same shall happen with respect to the common crimes which they may commit during the discharge of said employment, office, or commission. In order that the cause can be initiated when the high functionary may have returned to the exercise of his own functions, the procedure must be in accordance with the provisions in article 104 of the constitution."

The articles 104 and 105 of the constitution shall remain in these terms :

"104. If the crime be ordinary, the chamber of representatives, sitting as a grand jury, shall declare, by an absolute majority of votes, if there be cause of proceeding against the accused or not. In the negative case no further proceedings shall take place. In the affirmative, the accused is, by virtue of this, deprived of his office and subjected to the action of the ordinary tribunals.

"105. Of official offenses the chamber of deputies, as jury of impeachment, and that of senators, as jury of sentence, shall take cognizance."

The jury of impeachment shall have for its object to declare, by an absolute majority of votes, if the accused is or is not culpable. If the declaration be one of acquittal, the functionary shall continue in the exercise of his trust. If it be condemnatory, he shall be immediately deprived of said trust and shall be placed at the disposal of the chamber of senators. This, sitting as a jury of sentence in the presence of the offender and of the accuser, if such there should be, shall proceed to apply, by an absolute majority of votes, the punishment which the law designates.

TEMPORARY ARTICLE.

This declaration shall be promulgated by a national proclamation.

PALACE OF THE LEGISLATIVE POWER,
Mexico, November 6, 1874.

(Here follow the signatures of the deputies of the Congress of the union.)

Therefore I order that it be printed, published, circulated, and that due compliance with it be observed.

Given in the national palace of Mexico the 13th of November, 1874.

SEBASTIAN LERDO DE TEJADA.

No. 403.

Mr. Foster to Mr. Fish.

No. 211.]

LEGATION OF THE UNITED STATES,
Mexico, November 27, 1874. (Received December 19.)

SIR: In conformity to the instructions contained in your dispatch No. 147, of October 19th ultimo, I communicated to the Mexican minister

of foreign affairs, on the 18th instant, the substance of the letter of Professor Benton, of the Pacific Theological Seminary, in relation to the safety of Messrs. Watkins and Morgan, friends and associates of the late Rev. John L. Stephens, and expressed the hope that the Mexican government would take such additional measures as it might find requisite to secure their protection and the freedom of religious worship.

Under date of the 26th instant, Mr. Lafragua, in acknowledging the receipt of my note, states that he has transcribed a copy thereof to the governor of the State of Jalisco, recommending him to take the measures which he may deem efficacious for giving Messrs. Watkins and Morgan the security which the law guarantees; and that he had also addressed an *excitativo* to the supreme court of justice, before which is still pending the appeal of the persons convicted of the assassination of Rev. Mr. Stephens, in order that the said business may be terminated as soon as possible.

While I have been disappointed in the manner in which the judicial proceedings in the case of the assassins of Mr. Stephens have been conducted, and do not recognize the full force of the statements contained in the last paragraph of Mr. Lafragua's note, I have thought proper to defer a reply for the present, in the hope that some prompt and satisfactory termination may be had to the judicial proceedings.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 211.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,
Mexico, November 18, 1874.

SIR: I take the liberty to call your excellency's attention to a communication which has been addressed to the Secretary of State of the United States by the presiding officer of the Pacific Theological Seminary at Oakland, Cal., in relation to the insecurity of Messrs. Watkins and Morgan, graduates of that institution, now stationed at Guadalajara, Mexico, and who were friends and associates of the late Rev. John L. Stephens, who was assassinated at Ahualulco, in the State of Jalisco.

This officer, in his communication, directs attention to the fact that no one has yet paid the penalty of that crime, although the assassination occurred in March last; that recently the priest who instigated the crime, and several other persons implicated in it, have been acquitted; and that these occurrences have emboldened the enemies of Messrs. Watkins and Morgan, and have rendered their situation more perilous. He therefore asks, on behalf of the faculty and other officers of the Pacific Theological Seminary, that the Government of the United States may exert its influence with the national and state authorities of Mexico to secure the safety of these gentlemen and the free exercise of their religious duties. To this end, I am instructed by my Government to ask for them the good-will and protection of the national authorities of Mexico and of the State of Jalisco.

As I have heretofore, in official notes and personal interviews, expressed to your excellency the deep interest which the Government and people of the United States feel in the questions growing out of the assassination of Rev. John L. Stephens, and the regret entertained for the long delay of and immunity from punishment of the instigators and perpetrators of that crime, it is hardly necessary for me on this occasion to do more than direct your excellency's attention to the representations and request contained in the communication to which I have alluded, and to express the hope that the Mexican government will take such additional measures as it may find requisite to secure full and personal protection and freedom of religious worship.

I again renew to your excellency the assurances of my distinguished consideration.

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

[Inclosure 2 in No. 211.—Translation.]

*Mr. Lafragua to Mr. Foster.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, November 26, 1874.

SIR: I have the honor to reply to the note of your excellency dated the 18th of this month, in which you are pleased to call my attention to a communication which has been addressed to the Secretary of State of the United States by the president of the Pacific Theological Seminary at Oakland, relative to the insecurity of Messrs. Watkins and Morgan, friends and associates of the late Rev. John L. Stephens, who was assassinated in Ahualulco, stating to your excellency that I have transcribed said note, in so far as it relates to him, to the governor of the State of Jalisco, recommending to him most earnestly that he may be pleased to take the measures which he may deem efficacious for giving those gentlemen the security which the laws guarantee; and that I have addressed an *excitativo* to the supreme court of justice of the nation, that it likewise may take such action with the proper authority in order that this sad business may, as soon as possible, be terminated.

I will also add, that your excellency may, if you think proper, communicate it to whom it may concern, that it is not true that those already declared guilty have not morally suffered the punishment which was imposed upon them, which was death, which proves that the judicial authorities have acted with promptness and severity; that if the case has not afforded the ground for applying capital punishment to the criminals, it is because they have employed in their defense the legitimate means which the laws permit, which it is not possible to deny without violating them; that in relation to the acquittal of those who were charged with being instigators of the crime, it is the result of a judicial act, which has taken place after the due process had been completed for the investigation of the truth, which is not always in accord with the prejudices of the public; and, finally, that for the rest, the government, by all possible means, seeks to give security to foreigners, and that prompt and complete justice may be administered to them.

I renew to your excellency the assurances of my perfect consideration and sincere regard.

His Excellency JOHN W. FOSTER,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

J. M. LAFRAGUA.

No. 404.

Mr. Foster to Mr. Fish.

No. 213.]

LEGATION OF THE UNITED STATES,
Mexico, November 30, 1874. (Received December 19.)

SIR: On the 24th instant I received a telegram from Mr. J. Ulrich, consul at Monterey, advising me of the arrival at that place of Mr. H. M. Atkinson, the commissioner appointed by the Department of the Interior to secure the removal of the Kickapoo Indians still remaining in Mexico to their reservations, and asking me to procure the appointment of commissioners on the part of the Mexican government, and to request the co-operation of the governor of the State of Coahuila.

Although I was not advised of the coming of Mr. Atkinson, and had no instructions on the subject, I on the next day called upon Mr. Lafragua, minister of foreign affairs, and asked the co-operation of his government in accomplishing the object of Mr. Atkinson's mission, leaving with him a note, of which I inclose a copy.

Mr. Lafragua stated that the present mission of Mr. Atkinson had not heretofore been brought to his attention, but he promised that the subject should be laid before the President immediately.

This morning, in a call which I made at the foreign office, I was informed by the chief clerk, in the absence of Mr. Lafragua, that the same instructions would be telegraphed to-day to the governor of Coahuila as

those under which he acted last year; that Señor Montero, who formerly acted as Mexican commissioner, would leave this city within a few days with full instructions upon the subject, and would probably be again appointed by the governor of Coahuila; and that the war department had given instructions to the military commandant on the Rio Grande frontier. A copy of instructions of the war department was subsequently sent me in a note from Mr. Lafragua, which I inclose, and from which it will be seen that action is limited to such of the Kickapoos as have not entered the State of Durango and are still on the frontier.

I am not advised whether this limitation will materially interfere with the object of Mr. Atkinson's mission.

I have advised the consul at Monterey by telegraph and mail of the action of the Mexican government.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 213.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,
Mexico, November 25, 1874.

SIR: I beg to inform your excellency that I have received a telegram from the consul of the United States at Monterey, in the State of Nuevo Leon, stating that Mr. H. M. Atkinson, the commissioner appointed by my Government for the purpose of securing, if possible, the return of the remaining portion of the Kickapoo Indians, still in Mexico, to their reservation in the United States, has arrived at Monterey, and that he desires the co-operation of the national and State authorities of Mexico to facilitate the object of his mission.

In view of the past cordial co-operation of the authorities of this republic in this business, I venture to request that your excellency's government will send such instructions as it may deem proper to the governor of the State of Coahuila, and take such other measures as it may think necessary to promote the success of Mr. Atkinson's mission.

I have the honor to renew to your excellency the assurances of my distinguished consideration.

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs.

[Inclosure 2 in No. 213.—Translation.]

Mr. Lafragua to Mr. Foster.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, November 30, 1874.

SIR: I have the satisfaction of replying to the note of your excellency of the 25th of this month, in which you are pleased to state that there has arrived at Monterey Mr. Atkinson, commissioner of the Government of the United States, to effect the removal to their reservations in that country of the rest of the Kickapoo Indians still in Mexico, and asking the co-operation of the Mexican government, to the end that the said gentleman may be aided in the accomplishment of his mission. I inclose to you a copy of the order of the department of war, which I have just received, in which it appears that instructions have been given to General Fuero, military commandant of the line of the Bravo, that he place no obstacles in the way of the return of the Indians.

I reiterate to your excellency the assurances of my distinguished consideration.

J. M. LAFRAGUA.

His Excellency JOHN W. FOSTER,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

[Inclosure in 2 in No. 213.—Translation.]

*Mr. Mejia to Mr. Lafragua.*DEPARTMENT OF WAR AND MARINE,
Mexico, November 26, 1874.*To the Citizen Minister of Foreign Affairs, present :*

In reply to your communication, dated the 25th of the present month, in which you transcribe to me the communication of the minister of the United States, stating that a commissioner from his Government has arrived at Monterey, for the purpose of effecting, if possible, the return to their reservation in the United States of the rest of the Kickapoo Indians who are still in Mexico, and that he desires the co-operation of the national and State authorities in promoting the success of his mission, I have to state to you that citizen General Fuero has already been advised that, if it is the will of the Kickapoos who may not have entered the State of Durango, as he was previously informed, and are upon the frontier, to return to their reservations in the United States, he place not obstacle or difficulty in the way of their doing so.

Independence and liberty.

MEJIA.

No. 405.

Mr. Foster to Mr. Fish.

No. 214.]

LEGATION OF THE UNITED STATES,
Mexico, December 1, 1874. (Received December 19.)

SIR: In a call which I made yesterday at the foreign office, in relation to matters of an official character, before taking leave of the chief clerk, in the absence of the minister, I referred incidentally to the published statement of Alexander D. Hamilton, whose extradition from Mexico had been prevented through the interference of General Cortina, of Matamoras, in which statement Hamilton alleges that he made a bargain with Cortina to protect him, and that, after being shielded by him in Matamoras, he was sent by Cortina under a guard to one of his (Cortina's) estates, fifty miles into the interior of Mexico, and thereby escaped the United States detectives; and I added that if this statement was trustworthy, it only confirmed the prevalent impression in the United States as to Cortina's dishonesty and unfitness for any official position on the American frontier.

The chief clerk, Mr. Arias, in reply, stated that the attention of the Government had been already attracted to the published statement to which I had referred, and that the war department had ordered an investigation to be made as to the truth thereof, so far as it related to General Cortina. Mr. Arias added that the government had been often embarrassed in getting rid of or controlling such turbulent persons, who had during revolutionary times obtained official positions, but that it was desirous of using all prudent measures to dispense with their services, and especially to remove all causes of irritation on the Rio Grande frontier.

General Cortina, I am informed, still holds a commission as general in the Mexican army, but is at present *en deposite*, without a command and on one-third pay, but subject to be called into active service at any time by the government. He is now acting as the mayor or chief municipal official of the city of Matamoras.

Hamilton's published statement is herewith inclosed.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 214.]

HAMILTON, THE DEFAULTING TREASURER, SURRENDERS.

[From the Two Republics, Mexico, November 29, 1874.]

It will be remembered by our readers that several months ago this man Hamilton escaped into Mexico, and that telegrams reached this city announcing that the fugitive was making his way to this capital; but assurances were given that he would be arrested either on the way of in this city. We now have information that this individual, after many trying ordeals to escape clutches of Madam Justice, has surrendered to the authorities in New Jersey.

By the same intelligence we learn that Hamilton crossed the Rio Grande, as stated, and traveled through the country to this capital under the talisman of Cortina. We extract from Hamilton's confession the following:

"In Matamoras I staid at Happy Jack's hotel, and fearing arrest I sent for General Cortina, mayor of the town, and I made a bargain with him. The nature of that transaction I refuse to divulge. He promised to protect me. The next day the sheriff of Cameron County and the American consul at Matamoras came to see me. Cortina put me in charge of two officers, and smuggled me out of the back door into his own house. While I was there, Inspector Murphy came in and had an interview with Cortina. I laid in bed not six feet away while Murphy and Cortina were bargaining for my return. Cortina offered to give me up for \$20,000. The following day I was sent under a guard to one of Cortina's ranches, fifty miles out of town. There I received a telegram from my father to return, but I was closely guarded."

Hamilton says in the spring he went to San Luis Potosi; thence to the city of Mexico, Vera Cruz, Havana, New Orleans, and to Liverpool. We will give the confession in full in our next. How he got out of Cortina's clutches or why he was not surrendered he does not say; but it is presumable that the secret is in that "transaction" with Cortina, which he would not divulge.

No. 406.

Mr. Foster to Mr. Fish.

No. 223.]

LEGATION OF THE UNITED STATES,
Mexico, December 18, 1874. (Received January 11, 1875.)

SIR: The Mexican federal Congress closed the constitutional period of its session, and adjourned on the 15th instant, to re-assemble for its final session on the 1st of April, 1875. The subjects which have received the principal consideration of that body were, (first,) the passage of laws enforcing the constitutional amendments styled "the laws of reform;" and, (second,) the contracts made by the executive for the construction of railroads, both of which subjects will be referred to in separate dispatches. The administration has been able to carry all its measures, still maintaining a decided majority in congress.

The President, on the 15th instant, nominated a minister plenipotentiary to the republic of Guatemala and a chargé d'affaires to the kingdom of Italy, which nominations were confirmed by Congress. These positions correspond to the respective representations of Guatemala and Italy in this capital, and are the first appointments made to these countries since the French intervention.

The political disturbances between the governor of Oaxaca and the State legislature, to which reference was made in my dispatch No. 85,* September 18, was, after much discussion in the federal Congress, settled by the passage of a law authorizing the interference of the national government in favor of the legislature. A general of the army was sent to that State with a mere body-guard. The governor resigned his office. The legislature, which had been dissolved by the governor, re-assembled without opposition, and the public order was restored without any resort to arms.

* See Foreign Relations for 1874, page 764.

Some political disturbances occurred in the territory of Lower California in the months of September and October last, which had their origin mainly in personal opposition to the governor of the district, but were very limited in their extent, and soon suppressed.

The consul at La Paz informs me that at the instance of Mr. Henry S. Brooks, superintendent of the Triunfo Mining Company, the United States steamer Saranac, Capt. W. W. Queen, was ordered from San Francisco to La Paz to protect the property of that company, which is, in part, held by American citizens.

The consul expresses the opinion that the danger never was imminent and the presence of the war-vessel unnecessary.

I am, &c.,

JOHN W. FOSTER.

No. 407.

Mr. Foster to Mr. Fish.

No. 224.]

LEGATION OF THE UNITED STATES,
Mexico, December 20, 1874. (Received January 11, 1875.)

SIR: With my dispatch No. 211, of the 27th ultimo, I transmitted a translation of a note from the Mexican minister of foreign affairs, in which he informed me that he had recommended the governor of the State of Jalisco to take the measures which he might deem efficacious for giving the security which the laws guarantee to Messrs. Watkins and Morgan, Protestant missionaries at Guadalajara, friends and companions of the late Rev. John L. Stephens.

I now transmit a translation of a note from the minister, Mr. Lafragua, and its inclosures from the governor of Jalisco, stating that Messrs. Watkins and Morgan are enjoying complete security in their persons and ample liberty in the exercise of their worship. These declarations are based upon the communication of the governor and the letter of Messrs. Watkins and Morgan, to which latter your attention is specially directed.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 224.—Translation.]

Mr. Lafragua to Mr. Foster.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, December 18, 1874.

SIR: As a result, for the present, of the communication which was made to the governor of the State of Jalisco, in order that he might impart every kind of security to the gentlemen, Watkins and Morgan, friends and associates of the deceased Rev. John L. Stephens, who was assassinated at Ahualulco, of which I speak in my note of the 26th ultimo in reply to that of your legation, under date of the 18th of the same month, I have the honor of inclosing herewith a copy of the communication which I have received from the said governor of Jalisco, and its inclosures, which consist of communications exchanged between the said government and the before-mentioned gentlemen, Watkins and Morgan, in which it may be seen that they are enjoying complete security in their persons and ample liberty in the exercise of their worship.

This I have the satisfaction of communicating to your excellency as a result, for the

present, of your said note of the 18th of November last, and promising to give you any other information which I may receive in relation to this case.

I reiterate to your excellency the assurances of my regard and attentive consideration.

J. M. LAFRAGUA.

His Excellency JOHN W. FOSTER,

*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.*

[Subinclosure 1 in No. 224.—Translation.]

The governor of Jalisco to Mr. Lafragua.

No. 3478.]

SUPREME GOVERNMENT OF THE
STATE OF JALISCO, SECTION OF JUSTICE,
Guadalajara, December 9, 1874.

To the CITIZEN MINISTER OF FOREIGN AFFAIRS, *Mexico* :

In reply to the official communication of the section of America of your department, which, under date of the 26th of November last, it was pleased to direct to this government, inserting therein part of one from the minister of the United States in Mexico, relative to the complaint which the Pacific Theological Seminary of Oakland, California, had sent up to the American Government, on account of the insecurity of the Messrs. Watkins and Morgan, as also that the assassination at Ahualulco de Mercado has remained unpunished, I have the honor to state to your excellency, that on the part of this government all suitable and efficacious measures have been ordered for the apprehension and punishment of the murderers of Mr. Stephens. In numbers 21 and 27 of the official paper, which I inclose to you, there appears what were its measures and their result. This government thinks that it has done what its duty demanded of it for the punishment of the criminals. As your department will see from the "expediente" published in that periodical, the government, since April last, denied the pardon and commanded the penalty of death to be executed upon the condemned authors of the murder, but the court of the district ordered the execution to be suspended, on the 24th of the same April, which order the government obeyed, as was its duty. Since that date these criminals have been at the disposition of federal justice in virtue of an "amparo" which they asked, without, up to the present, the matter being settled.

If the criminals have not suffered the punishment to which they have been condemned, it is not through the fault or delay of the government of the State, which can do nothing more in the matter, as, since April, it has been under the jurisdiction of the federal tribunals, as in former communications has been stated to your department.

As soon as this government received the present "excitativo" that it should take such efficient measures as would give to Messrs. Watkins and Morgan the security which the laws guarantee to them, I addressed to them the communication marked No. 1, to which the one marked No. 2 is a reply.

By these communications your department will see that there have never been wanting to those citizens the guarantees which the laws of the republic grant them, and that always this government has caused these guarantees to be given, even in the midst of the excitement which the events of Ahualulco de Mercado caused, the executive having then afforded the Protestants of the State the special protection which the circumstances for preventing criminal attempts like that at Ahualulco might make necessary. From the foregoing, your department will see that Messrs. Watkins and Morgan, as well as all citizens who adhere to the evangelical, or any other worship, live in Jalisco with full guarantees, and that those who profess a religion different from the dominant one in the country have no ground for complaint against this government. Independence and liberty.

T. Y. VALLARTA.

F. G. REISTRA,

Secretary.

[Subinclosure 2 in No. 224.—Translation.]

The secretary of the State of Jalisco to Messrs. Watkins and Morgan.

No. 1.]

DEPARTMENT OF THE SUPREME
GOVERNMENT OF THE STATE OF JALISCO,
Guadalajara, December 5, 1874.

To Messrs. DAVID F. WATKINS and G. F. G. MORGAN :

By order of the supreme court, I have the honor to address you, through the present communication, asking that you may be pleased to state if you have and have had

from the government of the State all the necessary guarantees for your personal safety and the practice of your worship, and if it is true that the same government has afforded you all the protection which the laws grant to foreigners and their worship.

Independence and liberty.

FERMIN G. RIESTRA,
Secretary.

[Subinclosure 3 in No. 224.]

Messrs. Watkins and Morgan to the secretary of the State of Jalisco.

No. 2.]

GUADALAJARA, December 5, 1875.

We are advised of your attentive communication, under date of to-day, in which you ask that we state if we have had the necessary guarantees for our personal security and the practice of our worship, and if it is true that the supreme government has afforded us all the protection which the laws concede to foreigners; and in reply we have the honor to state to you, for the satisfaction of the citizen governor, whom we esteem, that from the moment that we had the pleasure of setting foot upon the territory of this State, we have had and at present enjoy all the guarantees which the laws concede to foreigners, and very particularly the security of our persons, by the protection which, without our deserving it, the supreme government has afforded us. For what has been said, and as now the occasion is offered, we beg you to so state to the citizen governor, giving to him thanks for the attention which, thus far, he has shown us, offering to him, at the same time, the assurances of our regard for his person.

G. F. G. MORGAN.
DAVID F. WATKINS.

No. 408.

Mr. Foster to Mr. Fish.

No. 225.]

LEGATION OF THE UNITED STATES,

Mexico, December 22, 1874. (Received January 11, 1875.)

SIR: The subject which has occupied the most attention and occasioned the most animated discussion of the session of the federal Congress which adjourned on the 15th instant, has been the passage of a law enforcing the constitutional amendments, known as the "laws of reform." These amendments were transmitted with my dispatch No. 52,* September 30th, 1873.

The law just passed by Congress prohibits all religious exercises and demonstrations outside of the churches, and in some respects regulates them within the churches; prescribes the manner, and limits the extent of ownership in church property; defines and prohibits all monastic orders and religious communities; prescribes the relations and obligations of ministers of religion; defines the judicial oath; regulates the marriage rite, and prohibits compulsory labor and all restraint of personal liberty. A copy and translation of this law are herewith inclosed.

The chief cause for the very rigorous opposition which this law encountered in Congress and the public press was that it contemplated the suppression of the Sisters of Charity, (of San Vicente de Paul,) the only remaining religious order existing in the country. The official journal, in defending the action of the government, uses the following language:

Congress has only carried out the constitutional precepts. The Sisters of Charity were authorized by a law issued under abnormal circumstances for philanthropic ob-

jects. These circumstances no longer exist, and in passing an organic law of the constitution it would not be possible to permit the existence of said community when the constitution itself expressly forbids the existence of corporations of a religious character, whatever their form and tendencies. That which, consequently, is prohibited is, that the Sisters of Charity continue living together as a community or corporation; but the persons who form said community may continue to reside in the country if they choose, and can continue to act in their philanthropic sphere, isolated, that is to say, provided they do not obey the regulations of a monastic order.

In observance of the law, the Sisters of Charity have discontinued the charitable institutions in this city under their charge, and it is announced that all the members of the order in this republic will leave the country.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 225.—Translation.]

THE LAWS OF REFORM.

Sebastian Lerdo de Tejada, constitutional President of the United Mexican States, to their inhabitants: Know ye, that the Congress of the union has thought best to decree the following:

The Congress of the union decrees:

SECTION FIRST, ARTICLE 1. The state and the church are independent of each other. No laws establishing or prohibiting any religion can be passed; but the state may exercise authority over all these so far as regards the preservation of public order and the observance of its institutions.

ARTICLE 2. The state guarantees in the republic the exercise of all forms of worship. It will prosecute and punish only those deeds and practices which, although authorized by some worship, may amount to an offense or crime according to the penal laws.

ARTICLE 3. No authority, or corporation, nor organized troop, can assemble in its official character for the acts of any worship; nor can any demonstrations in the character of religious ceremonies be made by the state. All those festival days which may not have for their exclusive object the celebration of purely civil events are, in consequence, prohibited. Sundays are designated as days of rest for offices and public establishments.

ARTICLE 4. Religious instruction and official exercises, of whatsoever worship, are prohibited in all the establishments of the federation of the states and of the municipalities. Morality shall be taught in those institutions which by their nature may permit it, although without reference to any form of worship. The infraction of this article will be punished by a government fine of from twenty-five to one hundred dollars, and with a deprivation of office of the offenders in a case of repetition of the offense. Persons who may live in public institutions, of whatsoever class, can, if they ask it, assemble in the houses of their worship, and receive in the same institutions, in case of extreme necessity, the spiritual aids of the religion which they profess. In the respective regulations the manner of obeying this authorization shall be fixed without prejudice to the object of these institutions, and without violating the provision of article 3.

ARTICLE 5. No religious act can be publicly performed except in the interior of the churches, under the penalty of the act being suspended and its authors punished with the government fine of from ten to two hundred dollars or imprisonment of from two to fifteen days. In case that to the act there should be given, in addition, an important character by the number of persons who attend it, or through any other circumstance, the authors of it, as well as the persons who do not obey the intimation of the authority that the act be suspended, shall be sent to prison and consigned to the judicial authority, incurring a punishment of from two to six months' imprisonment. Outside of their churches neither the ministers of religion nor the individuals of either sex who profess it can use the especial or distinctive dress which characterizes them, under the penalty of a government fine of from ten to two hundred dollars.

ARTICLE 6. The use of the bells is limited strictly to the necessity of summoning to the religious exercises. In the regulations of the police there shall be set forth such rules respecting this use as shall not cause disturbance to the public.

ARTICLE 7. In order that a church may enjoy its prerogatives as such, in conformity with articles 969 and relative articles of the criminal code of the district, which, for the purpose, are declared in force in all the republic, notice of its existence and dedication must be given to the political authority of the locality, who, keeping a register of such churches, shall give notice of it to the government of the state, and

this to the department of the interior, (*gubernacion.*) As soon as a church may not be dedicated to the exclusive exercise of the worship to which it pertains, acts of another sort being performed in it, it shall be expunged from the register of churches, according to the provisions of this article.

ARTICLE 8. The institution of heirs and legatees, which may be made in favor of the ministers of religion, of their relatives within the fourth civil grade, and of persons who may live with said ministers, is null when these may have given any kind whatsoever of spiritual comfort to the testators during the sickness of which they shall have died, or may have been directors of the same.

ARTICLE 9. The institution of heirs or legatees is likewise null, which, although made in favor of competent persons, may be an evasion of the law and an infringement of part 3 of article 15.

ARTICLE 10. Ministers of religion do not enjoy, by reason of their character, any privilege which may distinguish them, before the law, from other citizens, nor are they subject to more prohibitions than those which, in this law and in the constitution, may be designated.

ARTICLE 11. The discourses which the ministers of religion may pronounce counseling disobedience to the laws or provoking any crime or offense, make the assembly in which they may be delivered unlawful, and the enjoyment of the guarantee which article 9 of the constitution grants ceases, the power of annulling it being given to the authority. The author of the discourse shall be subject, in this case, to the provision in title 6, chapter 8, book 3, of the criminal code, which in this case shall be declared in force throughout the whole republic. The crimes which may be committed at the instigation or suggestion of a minister of any religion in the cases of the present article place that minister in the category of the principal author of the deed.

ARTICLE 12. All assemblies that may take place in the churches shall be public, shall be subject to the vigilance of the police, and the authority can exercise in them the duties of their office when the case may demand it.

ARTICLE 13. Religious institutions are free to be organized hierarchically as they may elect, but this organization does not produce before the state any legal effects except that of giving personality to the superiors of these institutions in each locality according to the intents of article 15. No minister of any religion can, according to the same article, address the authorities in his official character. But he shall do it in the form and with the requisites with which every citizen can in the exercise of the right of petition.

SECTION SECOND, ARTICLE 14. No religious institution can acquire real estate nor mortgages upon it, with the exception of churches designed immediately and directly for the service of public worship, with the dependencies attached to them which may be strictly necessary for this service.

ARTICLE 15. The rights of religious associations represented by their superior in each locality are:

I. That of petition.

II. That of ownership of the churches acquired according to the provisions of the preceding article, which right shall be regulated by the special laws of the state in which the edifices are situated; this right being extinguished when the association in each locality may be dissolved, or when the ownership may be abandoned.

III. That of receiving alms or donations, which can never consist in real estate, nor in any incumbrance upon real estate, either in obligations or promises of future fulfillment under title of a testamentary institution, donation, legacy, or any other class whatsoever of such obligation, since all will be null and void.

IV. That of receiving such alms in the interior of the churches by means of the collectors who may be appointed, with the understanding that outside the churches the appointment of such collectors is absolutely prohibited, those who are so appointed being comprehended in article 413 of the criminal code of the district, which article is declared in force in all the republic.

V. The right which is designated in the following article.

Outside these said rights, the law recognizes no other as belonging to religious societies in their character of a corporation.

ARTICLE 16. The direct control of the churches, which, conformably to the law of the 12th of July, 1859, became the property of the nation, and which remained in the service of the Catholic worship, as also that of those churches which afterward may have been ceded to any other religious institutions whatsoever, remains in the hands of the nation, but their exclusive use, preservation, and improvement belong to the religious institutions to which they may have been ceded, so long as the consolidation of the property may not be decreed.

ARTICLE 17. The edifices of which the two former articles treat shall be exempt from the payment of taxes, except when they might be constructed or acquired nominally and expressly by one or more private persons, who hold the proprietorship of them, without transmitting it to a religious society. The proprietorship in such case shall be regulated in conformity to the common laws.

ARTICLE 18. The edifices which may not be the property of private individuals, and which, according to the rule in this section and that which follows, may be recovered by the nation, shall be alienated in conformity to the existing laws on that subject.

SECTION THIRD, ARTICLE 19. The state does not recognize monastic orders, nor can it permit their establishment, whatsoever may be the denomination, or the object for which they may pretend to be established. Secret orders which may be established shall be regarded as unlawful meetings, which the authority can dissolve if in them the question of their members living in community shall be discussed, and in every case the chiefs, superiors, and directors of these orders shall be judged as guilty of an attack upon the individual guarantees, in conformity to article 963 of the criminal code of the district, which is declared in force in all the republic.

ARTICLE 20. Religious societies whose members live under certain rules peculiar to them, in virtue of promises or vows, temporary or perpetual, and under subjection to one or more superiors, even though all the members of the order may have a separate habitation, are monastic orders, according to the intents of the preceding article. By the same article, the first declarations, and those relative to it, of the circular of the department of the interior (*gobernacion*) of the 25th of May, 1861, are without effect.

SECTION FOURTH, ARTICLE 21. The simple promise to tell the truth, and the promise to fulfill the obligations which are imposed, takes the place of the religious oath in its effects and penalties; but both are the only legal requisites when affirmation is made of any fact before the tribunals, in which case the first shall be made, and the second when possession is taken of any trust or employment. This last shall be presented, a formal promise being made, without any reservation, to observe and to cause to be observed in the case the political constitution of the united Mexican States, with its additions and reforms, and the laws which may emanate from it. Such a declaration must be made by all who take possession of a public employment or trust, whether of the federation of the States or of the municipalities. In all other cases in which, according to the laws, the religious oath produced any civil effects, the promise does not produce them, even though it may be made.

SECTION FIFTH, ARTICLE 22. Marriage is a civil contract, and it, as well as all other acts that determine the civil status of persons, belongs to the exclusive jurisdiction of the functionaries of the civil order, according to the provisions of the law, and they shall have the force and validity which the said laws give them.

ARTICLE 23. It belongs to the state to legislate upon the civil status of persons, and to regulate the manner in which the acts relative thereto must be published and registered, but its regulations shall be subject to the following provisions:

I. The officers of the civil register shall be as many in number as are necessary to accommodate all persons who may have need to go to them, and they shall always be in charge of employes of ability and approved honesty.

II. The registry of the acts of the civil state shall be made with due exactness and separation in books which shall be under the inspection of the political authorities. The record shall be made with all the requisites and formalities necessary to guarantee the veracity and authenticity of the acts. The books must not contain erasures, interlineations, or corrections—the note “not approved” being affixed to that which is incorrect before the signature, and the matter being written out correctly immediately following.

III. The civil service shall be entirely gratuitous for the public, and tariffs for the collection of fees can only be established by those acts which, capable of being performed in the offices of the government, are, at the request of the interested parties, performed at their own houses; for forwarding of certified copies of the records, and for burials which may be made in privileged places in the public cemeteries.

IV. The officials of the civil registers shall make a copy of their books without any interruption of the records. Every six months they shall remit this copy to the archives of the government of the state, certified upon the margin with a statement of the leaves which it contains, and signed with rubrics upon the margin. They shall, besides, make a monthly report of those acts which during the month have been registered.

V. All the acts of the civil register shall have the character of public acts, and no one who may ask it can be denied a certified copy of any record.

VI. The records of the register shall be the sole proof of the civil status of persons, and they shall have validity in court so long as their falsity is not proved.

VII. Civil marriage can be contracted only by one man with one woman, bigamy and polygamy being crimes which the laws punish.

VIII. The will of the contracting parties, freely expressed in the form which the law established, constitutes the essence of civil marriage, the laws, in consequence, will protect the exercise of such will, and prevent every compulsion upon it.

IX. Civil marriage can be dissolved only by death of one of the parties, but a temporary separation can be admitted for grave causes, which shall be determined by the legislator without either of the parties by virtue of the separation being competent to be united in marriage to another person.

X. Civil marriage cannot be contracted by persons who, through physical incapacity, are unable to fulfill its obligations, nor by those who, through moral incapacity, are unable to give their consent. Marriage which in these cases is contracted shall be declared null upon the petition of one of the parties.

XI. Relationship of blood or marriage between ancestors and descendants in direct line, and of brothers and of sisters of the full blood, or uterine, shall also be causes which may prevent the contract of marriage and which may dissolve the contract.

XII. All the suits which the married may have to try upon the nullity or the validity of the marriage, upon divorce, and all others concerning this state, shall be prosecuted before the civil tribunals which the laws may determine, without the resolutions which by chance may be passed by the ministers of religion upon those questions having any legal effect.

XIII. The law shall not hinder nor proscribe the religious rights respecting marriage. The married are free to receive the blessings of the ministers of religion or not, but they shall have no legal effect.

XIV. All cemeteries and places in which the dead may be buried shall be under the direct inspection of the civil authority, although they may be under the control of private companies. No company of this kind can be established without license from the proper authority, nor can interments or disinterments be made without a written permission or order from the competent functionary or authority.

ARTICLE 24. The civil status which a person may have, in conformity to the laws of a state or district, shall be recognized in all the rest of the republic.

SECTION SIXTH, ARTICLE 25. No one can be obliged to perform personal labor without his full consent, and without just compensation. The absence of consent, although the compensation may be tendered, constitutes an attack upon the guarantee, the same as the absence of the compensation when the consent has been tacitly or expressly given as a condition of obtaining it.

ARTICLE 26. The state cannot permit that any contract, pact, or agreement shall have validity which may have for its object the diminution, loss, or irrevocable sacrifice of liberty, whether by reason of labor, education, or religious vow; nor in which the person contracts for his banishment or exile. All the stipulations which shall have been made in contravention of this article are null, and always grant to him who accepts them indemnification for the damages and injuries which it shall have caused.

GENERAL PROVISIONS.

ARTICLE 27. It belongs to the political authorities of the States to impose the government fines of which this law speaks. The said authorities shall be responsible to the governors of the States for double the amount of those fines in case they authorize or knowingly permit the law to be infringed. The governors of the States are responsible in turn for the infraction of this law, and for the omissions of which they are the authorities, and employes which may be subject to them, may be guilty.

ARTICLE 28. Those offenses that are committed as an infraction of sections 1, 2, 3, and 6 of this law have the character of federal crimes, and are under the jurisdiction of the federal tribunals; but the judges of the States may take cognizance of them, *ex officio*, at those points where judges of the district do not reside until the cause has been prosecuted to the pronouncing of the sentence, remanding it then to the judge of the district to whom it pertains for his sentence. The competent authorities, in conformity to the common right of each locality, shall take cognizance of all other offenses which may be committed as an infraction of sections 4 and 5.

ARTICLE 29. There shall remain in force in this law the laws of reform, which shall be observed relative to the civil register until the States may enact those laws, which they must pass conformably to section 5. Said laws also remain in force in all that refers to the confiscation and alienation of ecclesiastical estates, and the payment of dowries to women expelled from the convents, with the modifications which by this law are made of article 8 of the law of June 25, 1856.

PALACE OF THE LEGISLATIVE POWER,
Mexico, December 10, 1874.

NICHOLAS LEMUS,
Deputy President.
LUIS G. ALVIREZ,
Deputy Secretary.
J. V. VILLADA,
Deputy Secretary.
ALEJANDRO PRIETO,
Deputy Secretary.

Therefore I order that it be printed, published, circulated, and due obedience given thereto.

Given in the palace of the national government, in Mexico, on the 14th of December, 1874.

SEBASTIAN LERDO DE TEJADA.

No. 409.

Mr. Foster to Mr. Fish.

No. 226.]

LEGATION OF THE UNITED STATES,

Mexico, December 23, 1874. (Received January 11, 1875.)

SIR: The Mexican Congress, which adjourned on the 15th instant, passed an act extending for one year, from January 1, 1875, the time fixed for the commencement of the work of the Tehuantepec Railroad Company, of which Mr. Simon Stevens, of New York, is president. In addition thereto, it has voted a subsidy of \$7,500 per kilometer, (\$12,500 per mile,) which will amount to about \$2,000,000 for the entire work, for the payment of which 50 per cent. of the customs-duties at the port of Minatitlan and Salina Cruz is pledged; and, in addition, a special privilege is granted to the company of cutting the precious woods of the isthmus.

Congress also ratified a contract made by the executive with a firm, styled Camacho, Mendizabal & Co., representing a mixed Mexican and English interest, for the construction of a railroad, termed the "Central Railroad of Mexico," from the city of Mexico to the city of Leon, in the State of Guanajuato, a distance of about 280 miles, passing by the cities of Queretaro, Celaya, Salamanca, and Guanajuato. The subsidy granted is \$9,500 per kilometer, (\$15,288 per mile,) payable in 8 per cent. of the duties at the custom-houses of Vera Cruz, Tampico, Manzanillo, Mazatlan, and Guaymas. It also grants to the company the exclusive lottery-privilege for the entire republic. Work is required to be commenced within ten months, 50 kilometers (31 miles) to be finished in eighteen months, and the entire road to be completed to Leon within five and a half years from the 8th of December, 1874. The gauge is fixed by law at 4 feet 8½ inches, which is the same as that of the railroad now in operation between this city and Vera Cruz.

A contract has been celebrated between the Federal executive and Hon. Edward L. Plumb, as the representative of the International Railroad Company of Texas, for the construction of a railroad from the city of Leon to the northern frontier, at such point on the Rio Grande as to connect with the southwestern terminus of said International Railroad, thereby joining the projected railroad system of Mexico with that of the United States. The proposed road from Leon contemplates uniting, by means of the main line or branches, the cities of Lagos, Aguascalientes, Zacatecas, Durango, San Luis Potosi, Saltillo, and Monterey. The contract provides a subsidy of \$9,500 per kilometer, (\$15,288 per mile,) for the payment of which 25 per cent. of the customs-duties at Matamoras and the other frontier custom-houses on the Rio Grande are pledged. The work upon the road is to be commenced within three months after the completion of the "Central Railroad of Mexico," referred to above, and to be completed to the Rio Grande within six years from the same date. The gauge is to be 4 feet 8½ inches, the same as the International of Texas and the connecting system in Mexico. To secure the fulfillment of the contract, the company is required to give a bond of \$200,000 within eight months after the passage of the law. This contract was submitted to Congress for its approval by the executive, through the minister of public works, on the 14th instant, the day before its adjournment, by which it was referred to the joint committees of industry, and will be acted upon at the next session of Congress, which convenes April 1, 1875. I inclose a copy and translation of the communication of the minister of public works in transmitting the contract

to Congress, as reflecting the views of the executive upon the subject of railroads in Mexico and their connection with the railroads of the United States.

A contract has also been celebrated by the executive with Mr. David Boyle Blair, as the representative of a joint American and English interest, for the construction of a railroad from the port of Guaymas, in the State of Sonora, to the northern frontier of the State, leading toward Tucson, in the Territory of Arizona. The contract grants as a subsidy alternate sections of 5.633 hectares per kilometer (equal to about 35 square miles per lineal mile of the road) of the public lands of the State of Sonora, not to exceed one-half of the same. The work is to be commenced within ten months after the contract becomes a law—50 kilometers to be completed in eight months thereafter, 200 kilometers to be completed within two years, and the main line to be finished within five and a half years. The gauge is fixed at 4 feet 8½ inches. The contract grants the free introduction of all materials and supplies required for the construction and equipment of the road, and exempts it from taxation for fifteen years, and from stamp-duties for fifty years. Free transit through the territory is granted to all goods and passengers. A bond of \$50,000 is required to be deposited with the government, within six months after the contract becomes a law, for the performance of its stipulations. This contract was also submitted by the executive to Congress for its approval on the day before the final adjournment, and will receive its consideration at the next session, in April, 1875.

I am, &c.,

JOHN W. FOSTER.

No. 410.

Mr. Fish to Mr. Foster.

No. 175.]

DEPARTMENT OF STATE,
Washington, January 6, 1875.

SIR: This Department has received an official note, of the 14th instant,* from Mr. Bartholdi, the minister of France here, stating that he had been instructed by his government to ask for the good offices of this Government toward obtaining from the government of Mexico a postponement of the departure of French Sisters of Charity from that country. It seems that they have been ordered to embark on the 31st instant. A delay until the departure of the European steamer of February is desired. You will make application accordingly. It is hoped that that government will see no serious objection to granting this favor.

I am, &c.,

HAMILTON FISH.

No. 411.

Mr. Fish to Mr. Foster.

No. 178.]

DEPARTMENT OF STATE,
Washington, January 14, 1875.

SIR: Your dispatch No. 224, of the 20th ultimo, has been received. The information which it contains may be regarded as satisfactory in re-

* Ante.

spect to Messrs. Watkins and Morgan. The Department, however, is not satisfied as to the necessity for the continued delay in executing the convicted murderers of the Rev. Mr. Stephens, especially as the case is understood to have been within the control of the federal government, at least since the appeal of the convicts which is referred to. It should be borne in mind that an unreasonable delay is virtually a denial of justice.

I am, &c.,

HAMILTON FISH.

No. 412.

Mr. Foster to Mr. Fish.

No. 231.]

LEGATION OF THE UNITED STATES,
Mexico, January 16, 1875. (Received February 2.)

SIR: In commemoration of the establishment of a direct and regular line of steamers between the cities of Vera Cruz, Mexico, and New Orleans, United States, on the 24th of December last a delegation of the chamber of commerce of New Orleans arrived in Vera Cruz, and soon thereafter proceeded to this city. The delegation made their visit upon the invitation of the *Lonja Mercantil* of this city, and had for its object the cultivation of more intimate commercial intercourse between New Orleans and Mexico. The delegation received the most marked attention and hospitality from the mercantile organizations, prominent private citizens, and public officials, and their presence has awakened a greatly-increased interest in the commercial affairs of the two republics. Among the most notable of the entertainments given them was a dinner at the national palace by President Lerdo, at which time he took occasion to express the deep interest he felt in the development and enlargement of the commercial relations between Mexico and the United States.

The delegation took their leave of this capital on the 10th instant, and, after visiting other cities, will sail from Vera Cruz for New Orleans on the 21st instant. They inform me that their observation and inquiries have deeply impressed them with the great importance of a reciprocity treaty, which they regard as desirable for the commercial interests of the two countries, and without which it will be very difficult to compete with European merchants, who now transact almost the entire business of this republic.

I am, &c.,

JOHN W. FOSTER.

No. 413.

Mr. Foster to Mr. Fish.

No. 237.]

LEGATION OF THE UNITED STATES,
Mexico, January 30, 1875. (Received February 15.)

SIR: On the 27th instant, at noon, I received a telegram from J. A. Sutter, esq., the consul of the United States at the port of Acapulco, in

the State of Guerrero, informing me that on the night previous the Protestant church at that place was attacked, that five persons were killed, among them an American, and eleven wounded, and that Rev. M. N. Hutchinson (an American citizen, resident in this capital) escaped and was in safety.

It is proper to state that about two months ago a delegation of Mexican Protestants arrived in this city, after a journey of ten days, and waited upon Rev. M. N. Hutchinson, the superintendent of the Presbyterian missions in this republic, and represented that they came to him in behalf of, and by appointment, of a body of Mexican citizens, who had embraced the Protestant faith, resident at Acapulco, with the request that they be received under his charge, and, if possible, that he visit that place and regularly organize them into a Protestant church. Being satisfied of the correctness of their representations, Mr. Hutchinson returned with the delegation to Acapulco about six weeks ago, and his friends in this city had received letters from him announcing his safe arrival; that he had been warmly received by the people represented by the delegation; that he had formed a very promising church, and had secured the use of a church building, and it was expected that at about the date of the telegram he would be ready to return to the city.

Immediately upon the receipt of the consul's telegram, I repaired to the Mexican foreign office, and obtained a prompt interview with Minister Lafragua, to whom I showed the telegram, and explained the circumstances under which Mr. Hutchinson was called to Acapulco. I stated to him that I was impressed with the gravity of the event, and must be permitted to say that it called for the most vigorous measures on the part of the Mexican government. I took occasion to say that the manner in which the assassination of Rev. Mr. Stephens, at Ahualulco, had been treated by the authorities was not satisfactory to my Government, and that if no more prompt and successful measures for punishment followed the assault and murder at Acapulco, it might occasion grave international difficulties, and it certainly would place in greater peril the lives of a number of American citizens in other parts of the republic.

Mr. Lafragua replied that he had received no other information of the occurrence at Acapulco than that contained in my telegram, but that he would send a copy of the same immediately to the minister of war, with the request that he adopt prompt measures in view of the facts stated. He said that in the Ahualulco affair the federal government had done all that it was possible or legal for it to do; that the trials and convictions had taken place, but that the criminals, being entitled to a resort to the "amparo," had appealed to the supreme court, where the cases were still pending, although he had three times asked the court for a speedy decision.

I remarked that the result of this delay in administering justice had emboldened the populace and made it almost impossible to sustain Protestant worship in the State of Jalisco; that the Rev. Mr. Morgan had been sent to Guadalajara to take the place of Rev. Mr. Stephens, who had been assassinated, and that I had been recently informed that he considered his life in such constant peril that he had felt compelled to abandon his post and leave the republic.

Mr. Lafragua then read to me the letter of Messrs. Morgan and Watkins to the governor of Jalisco, (which is contained in the inclosure to my No. 224,) in which they state, in answer to inquiries, that they enjoy the necessary guarantees for their personal security and the practice of

their worship, and all the protection which the laws concede to foreigners.

I stated that I did not charge the governor with any failure in duty in regard to their personal safety, as he appeared to have afforded them protection as far as military guards were concerned; but that it did not meet the emergency merely to station soldiers over the houses of the missionaries, and to follow them with an armed guard in their movements on the streets and about the country; that this was more an aggravation to the people than a remedy of the evil; that the neglect to correct the leading instigators in the assassination at Aqualulco, and the long delay in the punishment of a single participant in the affair, has encouraged the intolerant classes, who felt immunity from the authorities, and a reign of terror prevailed against Protestantism. The trouble was with the people, not with the governor; and so it will be elsewhere unless swift and severe punishment follow such outbreaks as these at Aqualulco and Acapulco.

Mr. Lafragua acknowledged the force of my remarks, but if the federal government had done all it legally could do, what more could I expect?

I replied that it was no reparation for the lives of American citizens sacrificed to say that the law placed the punishment in the hands of the local authorities and courts, when the criminals went unpunished and the slaughter of my countrymen by fanatical mobs continued. The Government of the United States looked to the federal administration of Mexico to protect its citizens, and not to the local authorities and courts. It was not for me to dictate or suggest how the federal government should exert its influence with these authorities, but in the name of my Government I must most imperatively demand that in some way it find an efficacious remedy. I added that if there was a failure to inflict prompt punishment upon not only the active participants but also the influential instigators of the outbreak at Acapulco, it would have an evil influence upon the communities in other parts of the republic, where American citizens were associated with Protestant missions, and that if a conspicuous and severe example was not now made by the government, the lives of American missionaries in Mexico would become so unsafe that I feared they would all be compelled to leave the republic.

Mr. Lafragua reminded me of the turbulent and ignorant character of the Indian population of the south of Mexico, where these disturbances had occurred, of which I told him I was aware, but that was the greater reason why such energetic measures should be taken as would strike them with terror, and teach them in a forcible manner the necessity of toleration, and of obedience to law and order.

He assured me of the disposition of the federal government to do all that was possible to protect the lives of American citizens and secure complete freedom of religious worship; and, in this instance, it would adopt immediate measures to secure the punishment of the offenders. But, he said, the government found itself greatly embarrassed and engaged in a constant struggle with the reactionary or clerical elements, and that it was very difficult to overcome the fanatical and intolerant prejudices of the people; that, just now, there was much passion manifested on account of the action of the government in disbanding the societies of the "Sisters of Charity," which was a necessary consequence of the adoption of the laws of reform as constitutional amendments.

I then said that I had not alluded to the political aspects of the case, contenting myself with an earnest effort to influence the government to diligence in the punishment of the murderers of American citizens, and in protecting those of them who are exposed to like dangers. But, as

he had referred to the subject, I would remark that my Government had, with much pleasure, officially congratulated Mexico upon the enactment of the laws of reform as constitutional amendments, and took a deep interest in its struggles to sustain the principles of religious liberty and the separation of church and state; but that its congratulation would be empty and meaningless if, in so far as they guaranteed freedom of worship, they remained a dead letter in the constitution. He (Mr. Lafragua) had laid great stress upon the obligation of the government not to trespass upon the personal rights of citizens, in the prosecution before the courts of those who have murdered American citizens on account of their religion; but, on the other hand, in the failure to punish them, an equally important constitutional principle was being violated, that which guarantees freedom of religious worship. The trouble to which he referred in regard to the "Sisters of Charity" was only a war of words, but at Aqualulco and Acapulco the blood of American and Mexican citizens had been shed by infuriated mobs, and the "laws of reform" had been set at defiance. These events presented a test of the ability and disposition of the government to vindicate the liberal principles upon which it was established. If it failed to do so, it must be regarded as a fatal blow at its own stability.

Mr. Lafragua said that the government recognized its obligation to enforce these principles, but it was not so easy to punish their infringement as in the United States, where these principles are fully accepted by the people.

I acknowledged the embarrassments with which the government is surrounded, and assured Mr. Lafragua that it had the hearty sympathy of the United States, and that personally I had no disposition to do anything but to strengthen its efforts; but that, unless these outbreaks were soon suppressed, it would come to be a question, not of the murder of a few American citizens and Mexican Protestants, but a life and death struggle for the maintenance of a professedly liberal government.

In taking my leave I said that I would await with interest information of the action of the government in the affair at Acapulco, and would be glad to be able to furnish my Government, by the mail of the 30th, (to-day,) whatever details I obtained. Mr. Lafragua promised to send me, as promptly as he was able, all information he received.

I have given you, somewhat in detail, the substance of my interview with the minister of foreign affairs, thinking it would aid you in forming a correct idea of not only the particular occurrence, but of the state of religious and political affairs in this country.

I inclose copies of telegrams to and from the consul at Acapulco, in relation to the attack upon the Protestant church, up to this date.

After returning from the interview on the 27th instant, I was impressed with the fact that, upon the occurrence at Acapulco being made public, it might place in greater peril the American missionaries in other parts of the republic. I therefore addressed to Mr. Lafragua a note, giving him a list of the States in which these missionaries are established, and suggested to him the propriety of issuing instructions to the proper authorities in those States to afford them all necessary protection in the safe and peaceable enjoyment of religious worship.

On the 28th instant, being informed by the telegram of the consul that Rev. Mr. Hutchinson had taken refuge on board an American frigate, from which I inferred that the authorities of the city of Acapulco were unable to protect him, (which inference was confirmed by the subsequent telegram of the consul,) I inclosed a copy of the telegram to the minister, and took occasion to say that the language I had

used in my interview, in view of subsequent events, did not appear to have been too strong, nor to have exaggerated the gravity of the occurrence.

On yesterday, Mr. Lafragua transmitted to me a note, inclosing copies of five communications from the respective executive departments, indicating the measures ordered, to the end that order and peace may be restored at Acapulco, that religious liberty of the interested parties may be guaranteed, and that the apprehension and punishment of those who may be found guilty may be secured.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 237.]

[Telegrams to and from the consul at Acapulco.]

Mr. Sutter to Mr. Foster.

[Received in Mexico 27th, 11 a. m.]

LEGATION UNITED STATES OF AMERICA,
Acapulco, January 27.

Last night the Evangelical church was attacked. Five killed, one American among them; eleven wounded. Mr. Hutchinson escaped and is in safety.

J. A. SUTTER, *Consul.*

Mr. Foster to Mr. Sutter.

MEXICO, *January 27.*

JOHN A. SUTTER,
American Consul, Acapulco :

The government assures me it will take prompt and vigorous measures for punishment and will afford all necessary protection to Mr. Hutchinson. Keep me advised of events, briefly by telegraph and in detail by mail.

JOHN W. FOSTER.

Mr. Sutter to Mr. Foster.

[Received in Mexico 27th, 9.40 p. m.]

ACAPULCO, *January 27.*

MINISTER OF THE UNITED STATES :

Mr. Hutchinson with servants aboard American frigate T. Batilly. He will sail by steamer for Panama.

SUTTER, *Consul.*

Mr. Foster to Mr. Sutter.

MEXICO, *January 28.*

JOHN A. SUTTER,
American Consul, Acapulco :

The government will furnish Mr. Hutchinson a guard, if he desires to return by land.

JOHN W. FOSTER.

FOREIGN RELATIONS.

Mr. Sutter to Mr. Foster.

[Received in Mexico 28th, 7 p. m.]

ACAPULCO, *January 28.*

MINISTER OF THE UNITED STATES:

Indians and coast-guard threaten Acapulco if the *cura* is arrested. The federal garrison insufficient to sustain the judge of the district. National guards under arms. The governor *en route* for Acapulco.

J. A. SUTTER.

Mr. Sutter to Mr. Foster.

[Received in Mexico 29th, 4.45 p. m.]

ACAPULCO, *January 29.*

MINISTER OF THE UNITED STATES:

It is more prudent for Mr. Hutchinson to go by water via Panama or San Francisco.

J. A. SUTTER.

[Inclosure 2 in No. 237.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,

Mexico, January 27, 1875.

SIR: Recalling to your excellency's attention the information which I imparted to you in my visit to-day to the foreign office, communicated to me by the American consul at Acapulco, of an attack made upon a Protestant church last night at that place, and the murder of five persons, among whom was one American citizen, and the wounding of eleven others; and in view of the assassination, at Ahualulco, of Rev. John L. Stephens, an American citizen, I deem it my duty to inform your excellency that there are Protestant missions established in the States of Vera Cruz, Guerrero, Mexico, Puebla, Hidalgo, Jalisco, Zacatecas, San Luis Potosi, Nuevo Leon, and Tamaulipas, with all of which I am informed there are connected American citizens.

I take the liberty of suggesting to your excellency that specific instructions be issued to the governors or military authorities of said States to afford to them all necessary protection in the safe and peaceable enjoyment of religious worship, which is guaranteed to them by the constitution and laws of Mexico and the treaty between the two republics. It is to be hoped, for the safety of the lives of American citizens, as well as for the good name of Mexico, that such prompt, decisive, and severe measures may be taken as will prevent a recurrence of the shocking barbarity and intolerance manifested at Ahualulco and Acapulco.

With the assurances of my high consideration and esteem, I am your excellency's obedient servant,

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

[Inclosure 3 in No. 237.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,

Mexico, January 28, 1875.

SIR: I inclose to your excellency a copy of a telegram received at a late hour last night from the consul at Acapulco. From this telegram it may be inferred that the local authorities at Acapulco have been either not able or not disposed to shield Rev. Mr. Hutchinson from the fury of the intolerant mob, which has successfully set at defiance the laws and authority of Mexico, and that he has been compelled to seek protection on board an American frigate and under the flag of my Government.

This event, following upon that of the assault upon the Protestant church and the murder of an American citizen, together with other persons, satisfies me that the earnest language which I used in our interview on yesterday was not too strong, neither did it exaggerate the gravity of that occurrence for the Mexican government. I embrace the opportunity afforded, by inclosing a copy of said telegram, to express the hope that you have communicated to the President the substance of our interview of yesterday, and that measures have already been ordered which will result, not only in the prompt and severe punishment of the criminals in this affair, but will satisfy American citizens in this country that the government has the ability and the disposition to protect them in the free and unrestrained exercise of religious instruction and worship.

I remain, with marked consideration and esteem, your excellency's obedient servant,
JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

[Inclosure 4 in No. 237.—Translation.]

Mr. Lafragua to Mr. Foster.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, January 29, 1875.

SIR: I have the honor to remit inclosed to your excellency copies of five communications relative to the unfortunate affair which happened in Acapulco on the night of the 26th of the present month, and to which your excellency refers in your notes of the 27th and 28th of the same month.

By said communications your excellency will see that there have been ordered and there are being ordered the appropriate measures, by this department and by the departments of justice, interior, (*gubernacion*,) and war, to the end that peace and order may be insured in that locality, that religious liberty of the interested parties may be guaranteed, and the apprehension and punishment of those who may be found guilty may be secured.

I improve this opportunity to renew to your excellency the assurances of my very distinguished consideration.

J. M. LAFRAGUA.

To his Excellency JOHN W. FOSTER,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

[Inclosure 1 in 4 in No. 237.—Translation.]

Mr. Perez to Mr. Lafragua.

DEPARTMENT OF THE INTERIOR, (GOBERNACION),
Section 2, Mexico, January 27, 1875.

To the Citizen Minister of Foreign Affairs, present:

I have to-day transcribed to the citizen governor of the State of Guerrero the communication which you were pleased to direct to me, under this date, relative to the attack which the Evangelical church had suffered in Acapulco, recommending to the said authority the measures which may be necessary in order to give security to persons and protection to liberty of worship, as also for the other ends which your said communication sets forth, to which I have the honor to reply.

Independence and liberty.

CAYETANO GOMEZ PEREZ,
Chief Clerk.

[Inclosure 2 in 4 in No. 237.—Translation.]

Mr. Covarrubias to Mr. Lafragua.

DEPARTMENT OF JUSTICE AND PUBLIC INSTRUCTION,
Section 1, Mexico, January 27, 1875.

To the Citizen Minister of Foreign Affairs, present:

I to-day say to the citizen judge of the district of Acapulco that which follows:
"The government has had notice that the Evangelical church of your city has been attacked. If, as it appears, the deed is under the federal jurisdiction, you are urged

to proceed to institute the appropriate investigation, hoping you will administer prompt and complete justice."

And I transcribe it to you for your information and in reply to your communication of to-day.

Independence and liberty.

J. DIAZ COVARRUBIAS.

[Inclosure 3 in 4 in No 237.—Translation.]

Mr. Gomez to Mr. Lafragua.

DEPARTMENT OF THE INTERIOR, (GOBERNACION),
Section 2, Mexico, January 28, 1875.

To the Citizen Minister of Foreign Affairs :

The citizen secretary of the government of the State of Guerrero, in a telegram dated yesterday, reports to me the following, from Chilpancingo :

"*To the Citizen Minister of the Interior, (Gobernacion):*

"The citizen governor of the State reports to me to-day from Dos Caminos :

"*To the Citizen Secretary of the Government :*

"On arriving here I received the following message from Acapulco :

"*To the Citizen Governor of the State :*

"Last night, at eight o'clock, about thirty men, armed with swords (*machetes*) and carbines, assaulted the Protestant church. They retired on the road toward Caraballo.

"Five dead; eleven wounded; much excitement. Measures are being taken to secure quiet, and an investigation.

"MUNDIO M. MARTINEZ."

"You will please transmit this to the Department of the Interior, adding that I am already ordering the appropriate measures in order that the disturbance may be quelled, and that, if my presence should be necessary, I will proceed to the port. I still await official details.

"D. ALVAREZ."

"This I have the honor to lay before your superior knowledge as I am advised."

In response I have to-day sent the following telegram ;

"This department is informed of the telegram with which you accompany the one which the citizen governor of your State sent you yesterday, communicating the fact that there had been an assault upon the Protestant church of Acapulco, by about thirty armed men. This I say to you in response, hoping that you may communicate to me whatever may occur relative to this unfortunate affair."

This I have the honor to transcribe to you, in response to your communication relative to the affair.

Independence and liberty.

CAYETANO GOMEZ Y PEREZ,
Chief Clerk.

[Inclosure 4 in 4 in No. 237.—Translation.]

Mr. Covarrubias to Mr. Lafragua.

DEPARTMENT OF JUSTICE AND PUBLIC INSTRUCTION,
Section 1, Mexico, January 28, 1875.

To the Citizen Minister of Foreign Affairs, present :

In a telegram of the 27th instant to this department the judge of the district of the State of Guerrero reports the following :

"I inform you that last night, at fifteen minutes past eight o'clock, the Evangelical church of this city was attacked by the common people, armed with swords (*machetes*)

and rifles, resulting in five being killed and eleven wounded of both parties, which this court found at the place of the unfortunate event. I learn that there are others in this community. The military commandant and the members of this court hastened at the time to render assistance with the force of the fort. The wounded and dead, among the last an American, were gathered up. The court was engaged during the whole night in the preliminary proceedings. Order has been re-established; no aggressor sound and well has been apprehended. I will communicate whatever occurs."

This I transcribe for your information.

Independence and liberty.

J. DIAZ COVARRUBIAS.

[Inclosure 5 in 4 in No. 237.—Translation.

Mr. Gomez Perez to Mr. Lafragua.

DEPARTMENT OF THE INTERIOR, (GOBERNACION),
Section 2, Mexico, January 28, 1875.

To the Citizen Minister of Foreign Affairs, present:

The citizen governor of the State of Guerrero, in a telegram dated yesterday, at Dos Caminos, reports to me the following:

"Notwithstanding I have ordered the appropriate measures to be taken for the preservation of order and the protection of the persons threatened by the assault of last night, I have now the satisfaction to repeat the same, in obedience to the excitative of your department contained in the message which the department of foreign affairs incloses relative to that of the consul of the United States in Acapulco. Finally, I have made arrangements to collect a considerable force, notwithstanding the distance, in case that it might be necessary to make use of it to establish the disturbed order."

I have the honor to transcribe this to you as a result of your communication of yesterday relative to the matter.

CAYETANO GOMEZ PEREZ,
Chief Clerk.

No. 414.

Mr. Foster to Mr. Fish.

No. 239.]

LEGATION OF THE UNITED STATES,
Mexico, February 3, 1875.

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 175, of January 6, 1875, after an unexplained delay in the mails on yesterday. It relates to the exercise of the good offices of this legation, at the request of the minister of France in Washington, to obtain from the government of Mexico a postponement until the European steamer of February of the departure of the French Sisters of Charity from this republic, which he understood had been ordered for the 31st of January last.

I called at the Mexican foreign office this morning, and was informed by Mr. Arias, first secretary, in the absence of the minister, that the government had granted to all the Sisters of Charity, both foreign and native, who had manifested a desire to leave the country, the time asked by them for their departure. He said that no law or decree had been passed expelling them from the republic; that the law, necessitated by the recent constitutional amendments which had been passed by the last Congress, (a copy of which was transmitted in my No. 225,) prohibited the members of religious orders to live in community or to wear their peculiar garb in public, and that the Sisters of Charity (of San Vincente de Paul) had made known their determination to leave the country rather than abandon these two practices of their order. The President, upon being informed of this determination, issued a decree suspending the effects of the law, as far as it related to the Sisters of

Charity, for one month, and afterward extended the time for two months, allowing them, meanwhile, to live according to the rules of their order, so that they may remain in the country undisturbed until the close of the present month; and the government has been disposed to extend the time still further, if the members of the said order had indicated a desire to have it done, which they have not.

I am informed that the greater part of the order has already departed, and that the members who remain will probably leave on the French steamer which sails on the 17th instant.

I am, &c.,

JOHN W. FOSTER.

No. 415.

Mr. Fish to Mr. Foster.

No. 188.]

DEPARTMENT OF STATE,
Washington, February 8, 1875.

SIR: I enclose herewith a copy of a letter of the 5th instant from the Secretary of War, accompanied by one of a report of the commanding officer of Fort Duncan, Texas, by which it appears that the officer in command of the Mexican forces in Northern Coahuila has been instructed to fight Indians hostile to this country, and to co-operate with United States troops when requested to do so.

You are instructed to express to the Mexican Government the gratification of this Department that such orders have been issued.

I am, &c.,

HAMILTON FISH.

[Inclosure in No. 188.]

General Belknap to Mr. Fish.

WAR DEPARTMENT,
Washington City, February 5, 1875.

SIR: I have the honor to transmit, for your information, a copy of the report of the commanding officer of Fort Duncan, Texas, of an interview with the officer commanding the Mexican forces in Northern Coahuila, who states his instructions are to fight Indians hostile to the United States, and to co-operate with our troops when requested to do so.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The honorable the SECRETARY OF STATE.

[Subinclosure in No. 188.]

Captain French to assistant adjutant-general, Department of Texas.

HEADQUARTERS, FORT DUNCAN, TEXAS,
January 18, 1875.

SIR: I have the honor to report that, in compliance with instructions contained in a letter dated Headquarters, Department of Texas, January 9, 1875, I went to Sara-

gossa, Mexico, and called upon Colonel Aguilas, 9th cavalry, Mexican army, commanding the forces in Northern Coahuila. I handed Colonel Aguilas the communication inclosed, with the letter referred to above, and he, after reading it, informed me that his instructions were to *fight* all Indians hostile to the United States, wherever he met them, and to co-operate with our troops when requested to do so. Colonel Aguilas has promised me to move his troops in conjunction with ours at any time upon information furnished from this post or Fort Clark. Colonel Aguilas had not learned of the presence of these Indians before I informed him; otherwise he would have attacked them. He will leave with all of his command, some four hundred men, for Santa Rosa immediately, and will drive these Indians out of his country.

I have notified the commanding officer of Fort Clark of this.

Very respectfully, your obedient servant,

JOHN W. FRENCH,
Captain 25th Infantry, Commanding.

ASSISTANT ADJUTANT-GENERAL,
Department of Texas, San Antonio, Texas.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, February 2, 1875.

Official copy.

E. D. TOWNSEND,
Adjutant-General.

For the honorable the SECRETARY OF THE INTERIOR.

No. 416.

Mr. Foster to Mr. Fish.

No. 241.]

LEGATION OF THE UNITED STATES,
Mexico, February 9, 1875. (Received February 20.)

SIR: In my No. 237, of January 30, I communicated to you the telegraphic information I had received from the consul at Acapulco, of the assault upon the Protestant church at that place and the assassination of an American citizen, together with the murder and wounding of a number of Mexicans; and inclosed copies of correspondence between this legation and the Mexican government in relation to the affair.

I now inclose copies of three communications from John A. Sutter, esq., consul at Acapulco, to Julius A. Skilton, esq., consul-general in this city, giving further details of the assassination, which aggravate rather than mitigate the outrage, as reported by telegraph. In these communications the consul states that, up to the 1st instant, the guilt of no person had been established as having participated in the affair, and that he feared that no one would ever be convicted and punished therefor. He further reports that the assault partook of the character of a cowardly massacre; that the American citizen, Henry Morris, a native of Boston, was horribly mangled, and that he leaves a large family at Acapulco, which, I am informed through other sources, was dependent upon him for their support; that the furniture in the church was cut to pieces; and that several of the wounded have since died. He represents the ignorant Indians, incited by a fanatical priest, as having created in the community a reign of terror; that the district judge, having arrested the parish priest, was forced to release him owing to the threats of armed violence made by the captain of the matricula, (a federal armed force;) that he, the said consul, together with others who have shown any sympathy for the Protestant congregation, have had their lives threatened; and that nothing but the most energetic and severe measures on the part of the Federal Government will have any influence in restraining the reign of intolerance and lawlessness.

In communicating the substance of the communications of the consul to the Mexican minister of foreign affairs, in a note dated yesterday, I expressed the hope that they would furnish his government additional motives for enforcing strict and decisive measures against the criminals.

In the same note I stated to the minister that the Government of the United States will expect that of Mexico to inflict rigorous punishment upon the murderers, and make full indemnity and compensation to the bereaved family of the American citizen assassinated, for the loss sustained by any failure of the authorities to afford the protection guaranteed to American citizens by articles 14 and 15 of the treaty of 1831.

I felt it my duty to give this prompt notice of indemnity, not only because I deemed it an act of obligation and justice to the bereaved family, but because I was satisfied it would have the effect to incite the Mexican authorities to greater diligence and care in the protection of other Americans similarly exposed, and in punishing the persons who participated in and instigated the assault at Acapulco.

I beg to direct your attention to my action on this point, which I trust may meet with your approval; and, if so, I respectfully request specific instructions as to my future action in fixing and enforcing the indemnity.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 241.]

Mr. Sutter to Mr. Skilton.

No. 3.]

UNITED STATES CONSULATE, ACAPULCO,
January 27, 1875.

SIR: Last night, at 8.15, about, the Evangelical congregation were surprised in their chapel by an armed mob, comprised of about forty to fifty men, said to belong to some Indian village in the neighborhood of Acapulco. Four Protestants—three men and one woman—were killed, and ten men wounded. One man of the aggressors was killed by a pistol-shot fired by the chief of police, who is a Protestant, and two more were wounded. Among the killed Protestants is Henry Morris, a native of Boston, married here, who leaves behind a numerous family. He had received three fearful machete-cuts, one of which nearly severed the head from the body. As soon as the cowardly massacre had taken place, and the organ and benches were cut to pieces, the assassins fled. When the garrison of the fort appeared they had all disappeared. Still, some arrests were made; and it appears that the district judge, who took the matter in hand immediately, will succeed in discovering the guilty parties.

All the Indians are under arms, and threaten to attack the town if the parish priest, who, in my opinion, is the prime mover of these heinous crimes, should be arrested. So he is still at large, and laughing probably at the impotence of the authorities.

Rev. Mr. Hutchinson yesterday had taken medicine, and consequently did not attend the meeting. A party is said to have gone to the house he inhabited and knocked, but as nobody stirred they supposed him to be among the congregation, and went away. He is, as the town is not safe, on board the American ship "Ida Lilly," and will return to Mexico via Panama and Vera Cruz. The road would not be safe for him. The military commander of the fort offered him the hospitality of the federal garrison, but I think the ship is more convenient. His servant is with him.

Everybody in town is in fear of the Indians, who, incited by a fanatical priest, would perpetrate the most atrocious crimes.

Threats have also been uttered against the lives of parties who had contributed towards the purchase of an organ for the congregation, and against parties who spoke of and acted friendly towards the new movement. Your humble servant is amongst the number.

Very respectfully, your obedient servant,

JOHN A. SUTTER, JR.

JULIUS A. SKILTON, Esq.,
United States Consul-General, Mexico.

[Inclosure 2 in No. 241.]

Mr. Sutter to Mr. Skilton.

No. 4.]

UNITED STATES CONSULATE, ACAPULCO,
January 27, 1875.

DEAR SIR: After writing to you to-day, I received a telegram from Colonel Foster requesting me to write to him by mail, and you will please communicate to him the contents of my letter to you. Mr. Hutchinson is perfectly safe on board the "Ida Lilly" for the present.

The district judge, Mr. Bonilla, tells me that already last night he had arrested the parish priest, but that the captain of the matricula, Barreto, threatened him openly that if the judge did not set the priest at liberty at once the entire matricula would rise, armed with machetes, and attack the soldiers. He then, seeing the necessity to submit, set him at liberty. The federal garrison amounts to sixty men only. One of the officers, a Protestant, is badly wounded. Several of the wounded will have to succumb; they are pronounced by the surgeons to be beyond recovery.

As far as I am concerned, I shall have to abscond to-night and abandon the consulate, as I do not consider it prudent to expose the lives of some men who, in case of necessity, would protect me.

A company of national guards has been called to arms; but I am quite convinced that should anything happen they would turn with the Indians and rabble against the federal forces.

At present nobody is sure of his life here. The federal government will have to act very energetically to suppress this rising, and punish most severely the instigators and perpetrators of the cowardly massacre of last night. Should anything new occur before to-morrow, I shall address you again.

Your obedient servant,

JOHN A. SUTTER, JR.

JULIUS A. SKILTON, Esq.,
United States Consul-General, Mexico.

[Inclosure 3 in No. 241.]

Mr. Sutter to Mr. Skilton.

No. 5.]

UNITED STATES CONSULATE, ACAPULCO,
February 1, 1875.

SIR: Confirming to you my communications, Nos. 3 and 4, of January 27th ultimo, I beg leave to state that the town is more quiet at present. Last night, however, a body of men, assembled near the cemetery, did not reply to the call of a detachment of national guard, who, at the command of their captain, fired upon and pursued the unknown body of men, which fled and disappeared in the bushes.

Until to-day, eight deaths have resulted from the massacre. Until now nobody has been clearly convicted of having participated in the massacre, and I fear that nobody ever will be convicted and punished. In a few days the excitement caused by this atrocious assassination will subside, and make room for another sensational affair of a similar nature.

In June last five men were killed at Tres Palos; in September, eleven persons at Dos Arroyos; in January, three at Tespan; January 26, the massacre at Acapulco; night night before last a man was killed at Sabano.

Fights of all descriptions, and family feuds, in which somebody is killed, are very common occurrences. Hardly ever anybody is robbed. This is the character of the people here, and they become worse, as they never are properly punished, every one generally alleging to have acted in self-defense.

The governor has not arrived as yet; nobody knows when he may come. Mr. Hutchinson is on board the "Ida Lilly," and will leave, per steamer, for San Francisco. I do not consider the road to Mexico safe for him, not even with an escort.

May I beg of you to communicate the contents of this letter to Colonel Foster, and oblige your obedient servant,

JOHN A. SUTTER, JR.,
*United States Consul.*JULIUS A. SKILTON, Esq.,
United States Consul-General, Mexico.

[Inclosure 4 in No. 241.]

*Mr. Foster to Mr. Lafragua.*LEGATION OF THE UNITED STATES,
Mexico, February 8, 1875.

SIR: The consul of the United States at Acapulco, in making the report which I called for, in regard to the assault upon the Protestant church at that place, on the 26th ultimo, which resulted in the assassination of the American citizen Henry Morris, and seven other persons, states that up to the 1st instant the guilt of no person had been established as having participated in the affair, and that he feared that no one would ever be convicted and punished therefor. He further reports that the assault partook of the character of a cowardly massacre; that the American citizen killed was horribly mangled; the furniture in the church cut to pieces, and that several of the wounded have since died. He represents the ignorant Indians, incited by a fanatical priest, as having created in the community a reign of terror; that the district judge, having arrested the parish priest, was forced to release him owing to the threats of armed violence made by the captain of the "Matricula;" that he, the said consul, together with others who have shown any sympathy or friendship for the Protestant congregation, have had their lives threatened, and that nothing but the most energetic and severe action on the part of the federal government will have any influence in restraining the reign of intolerance and lawlessness.

I have deemed it proper to bring to your excellency's attention, in this brief statement, the substance of the consul's report to me, hoping that it may furnish your government additional motives for enforcing strict and decisive measures against the criminals.

The said consul informs me that the American citizen, Henry Morris, assassinated as above stated, has left in Acapulco a large and dependent family, thus deprived of protection and support. It is my duty to take this early opportunity to state to your excellency that the Government of the United States will expect the government of Mexico to inflict rigorous punishment upon the murderers, and make full indemnity and compensation to the bereaved family for the loss sustained, by any failure of the authorities to afford the protection guaranteed to American citizens by Articles XIV and XV of the treaty of 1831.

I again reiterate to your excellency the assurances of my high consideration and esteem.

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

No. 417.

Mr. Foster to Mr. Fish.

No. 243.]

LEGATION OF THE UNITED STATES,
Mexico, February 15, 1875. (Received March 1.)

SIR: I inclose herewith a copy of a communication dated on the 3d instant, from Mr. Sutter, consul at Acapulco, with its accompaniments, giving an account of events subsequent to the assault to which my Nos. 237 and 241 relate, and of the state of public sentiment in that community. Your attention is directed to the recommendation of the consul, that a United States naval vessel be temporarily stationed at that port. In view of the facts developed in the interview which I had with the Mexican minister on the 11th instant, to which reference is herein-after made, I respectfully suggest that the presence of an American man-of-war would have a salutary influence upon the community and encourage the local authorities to greater firmness and activity in punishing the assassins. I also inclose a copy of my reply to the communication of the consul, dated February 12.

On the 11th instant I called upon Mr. Lafragua, minister of foreign affairs, and read to him a translation in Spanish of the greater part of

Mr. Sutter's communication, as well as a translation of your dispatch, No. 178, of the 14th of January last, in relation to the assassination at Ahualulco, of which latter I left with him a copy.

After the reading was concluded, Mr. Lafragua said to me that the character of the people in the State of Guerrero made it very difficult for the government to deal properly with the affair at Acapulco; that it was very different from other parts of the republic, such, for instance, as Guanajuato or Puebla, where the laws and authority of the government were respected; but that in the south of Mexico the people were ignorant and fanatical; that the statements of the consul just read, which were confirmatory of the information received by the executive, showed the embarrassment of the authorities; neither the governor nor judges having sufficient power to inflict the full measure of punishment demanded; and that it would require a whole division of the federal army to do it. Mr. Lafragua asked me not to forget the present politico-religious condition of the country, the long struggle which the liberal party had carried on for years against the political power of the Catholic Church, and that the government was now contending against three hundred years of prejudice and intolerance. He acknowledged the justice of my demand for the punishment of the criminals and for the protection of the lives and property of Americans in Acapulco, and said that the government was doing all it could to secure these ends, and hoped to fully vindicate the law and secure full religious toleration.

In reference to the judicial proceedings growing out of the Ahualulco affair, the cases were before the federal supreme court on appeal, and not under the control of the executive department of the government; that he (Mr. Lafragua) had three times asked for an early decision, and that he would again address the court upon the subject.

I answered the minister that I was far from forgetting the peculiar political situation of the country; that I had no disposition to embarrass this government by any factious or unnecessary demands, but was anxious to do all I properly could to strengthen it in its efforts to establish and maintain a liberal republican government, and that in this course I was satisfied I was representing the wishes of my Government; but that these religious massacres, in which American citizens were being murdered, could not be passed over in silence; that I was thoroughly convinced that it was an imperative necessity of the present liberal administration of Mexico, for its own safety and permanence, to repress and punish these outbreaks with a prompt and vigorous use of power; and that the lives and property of American citizens and companies at Acapulco, according to the report of the consul, confirmed by those of the local authorities, were exposed to the fury of a fanatical community, and it was for his government to decide whether Mexico or the United States would protect them.

I am just in receipt of a communication from the consul at Acapulco, a copy of which I inclose, from which it will be seen that, up to the 7th instant, the only culprits discovered by the judicial authorities were the two wounded assailants left in possession of the officials, who have since died. Twelve days have elapsed without any arrests, and it appears that the consul's prediction, that no one would ever be convicted and punished, is in a fair way to be realized.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 243.]

Mr. Sutter to Mr. Foster.

No. 27.]

UNITED STATES CONSULATE, ACAPULCO,
February 3, 1875.

SIR: I have the honor to acknowledge the receipt of your communication of January 27th ultimo. I presume that Mr. Skilton has communicated to you the contents of my letters to him of January 27 and 1st instant, Nos. 3, 4, 5.

Rev. M. N. Hutchinson left Acapulco on the evening of the 1st instant, per steamer "Montana," for San Francisco, in good health. His servant and his horse I have still here.

When I received your communication yesterday I had already paid my respects to the governor, General Alvarez. This morning I addressed to him a communication, of which please find inclosed copy, (inclosure 1,) and delivered the same to him personally, before his departure for Coyuga. He requested me to assure you that he would do all in his power to bring the guilty parties to light, and would take measures to prevent a repetition of the massacre, and that in a few days he would return to Acapulco. He expressed already yesterday a hope to be able to discover the instigator (meaning probably the Catholic priest) of the crime, saying that the people, without any instigation, never would have committed so atrocious a murder. At the same time the governor had a fair opportunity yesterday afternoon to judge of the excitement existing among the population. A demonstration was made publicly by a band of, say, eighty women and about the same number of men, who, having assembled at and marched from the church-door, went to accost him while he was taking a walk with some friends, and asked him not to deprive them of the priest, and to banish or exterminate all the Protestants.

The governor spoke to the people, who then quietly disbanded; but, in my opinion, this demonstration means as much as the rough words the foreman of the Matricula of the port, on the night of the massacre, addressed to the district judge, Mr. Bonilla; that is, that they would rise armed to attack the federal troops should he dare touch the priest.

The State militia is not to be relied on; the parish priest has, in fact, more power than the governor, who would render himself very unpopular should he actively interfere.

These opinions of course cannot be expressed here with safety. The district judge, whom I visited to-day and handed the communication already mentioned, partakes of and concurs in them, however; but candidly confesses that he can do absolutely nothing if the supreme government does not station here a battalion of federal troops, for which he says he has asked already. Nothing to inculpate any person has been elucidated, and I fear ever will be discovered.

Threats against the Freemasons have also been uttered already; still it would be impossible to prove it.

A United States vessel of war should remain stationed here for some time. In case of a rising, the office of the Pacific Mail Steamship Company, where everybody knows there is a good supply of money, and the bazar, the mercantile establishment of Mr. A. Dempwolff, who, among his stock of about \$40,000, has rifles, guns, pistols, knives, powder, lead, &c., would be attacked very quick, together with the United States consulate, and the large German importing house of Oetling, Gericke & Co., and our lives just then might be in danger.

As far as the legal technicalities of the case are concerned, it appears that Mr. Procopio Diaz, the chief of the Protestants here, probably for the reason of his being the secretary of the prefect of the district, carelessly neglected to give to the prefect due notice in writing of the establishment of the Protestant place of worship. All what Mr. Hutchinson says on the subject I have communicated to the district judge, and in all the proceedings so far, the place of the massacre has been called "el templo protestante," whereby virtually the right to the name is acknowledged, and the existence of the congregation granted.

Inclosures numbers 2 and 3 are the letters of Mr. Hutchinson on the subject.

It is now frequently said, in extenuation of the massacre, that the Protestants have often insulted the Catholics and the priest personally. I doubt it, and as far as Mr. Hutchinson is concerned, I deny it *in toto*.

The antecedents of the priest are well known. He always has been, and is now, one of the most fanatical, pure-blooded Indian priests, who already in 1859 was found at the head of a revolution in Costa Chica, and when taken prisoner by General Don Juan Alvarez, sent to the fort of Acapulco, and sentenced to be shot. At the intercession of the people, however, General Alvarez pardoned him with the condition that he must leave the country. I was then in the office of the Pacific Mail Steamship Company, and procured him a free cabin-passage to San Francisco, whence he returned during the empire. You will perceive that I know Mr. Justo Pastor Nava well.

Another incident which shows the situation of Acapulco is this: last Sunday two of the aggressors wounded were given up by the surgeons, and expressed a desire to receive the sacraments of the Catholic Church, which naturally was granted to them, but the authorities feared that, should the priest be seen entering the prison, people might believe he had been arrested and might rise at once against the garrison, consequently, as a measure of prevention, the wounded men had to be carried to the church, and after the ceremony back to the prison again. One has since died, the other one is still lingering; he says he was merely a spectator, looking on.

Should anything important take place I shall not fail to advise you of it, either by telegraph or by mail, as the case may require it, and remain,

Your obedient servant,

JOHN A. SUTTER, JR.

[Inclosure 1 in 1 in No. 243.]

Mr. Sutter to Governor Alvarez and the district judge.

FEBRUARY 3.

SIR: In obedience to instructions received yesterday from Hon. John W. Foster, envoy extraordinary and minister plenipotentiary of the United States of America in Mexico, I have the honor to request you, in his name, to promptly take the necessary measures within your power to procure the speedy punishment, according to the law, of the instigators and perpetrators of the atrocious massacre of Protestants, which took place on the evening of Tuesday, January 26th ultimo, whilst they were peaceably assembled in their chapel for the purpose of religious worship.

I have the honor to be, sir, very respectfully, your obedient servant,

JOHN A. SUTTER,
United States Consul.

Hon. J. W. FOSTER,

*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America, Mexico.*

[Inclosure 2 in 1 in No. 243.]

Mr. Hutchinson to Mr. Sutter.

ON BOARD THE *IDA LILLY*,
January 30, 1875.

FRIEND SUTTER: I am surprised to hear that Don Procopio Diaz did not give the proper notice respecting the place of worship. He came with Don Catarino Franco to speak of it, and it was understood that they should go at once and give the required notice, both that we were holding services in the house of Don Procopio, for the time being, and that San José had been taken for the same purpose, &c.

I was told that this notice had been given. I am sure the authorities took notice of this to the extent of putting another lamp at the upper corner of the church. I was there with the chief of police in person to indicate what seemed to us the proper place to locate it. It was one of the first things I called attention to when I came, and, from what I saw and learned, concluded that the proper parties had given the necessary notice to the proper authorities. I was also told that there would be nine soldiers in readiness, &c.

The spirit of the law was practically complied with, I am confident. I am very sorry it was not to the very letter. *

Yours, most cordially,

M. N. HUTCHINSON.

[Inclosure 3 in 1 in No. 243.]

Mr. Hutchinson to Mr. Sutter.

ON BOARD THE "*IDA LILLY*,"
Off Acapulco, February 1, 1875.

FRIEND SUTTER: *

I am very sorry about the notice not being sufficiently formal. My relation to the church being a general one, it seemed more proper for those who had been in charge of

the congregation for a year to give the notice in their name; but I said, "If more is needed, find out exactly what, and we will give it." It certainly is the duty of the officer to whom this should be reported to indicate the legal form of the notice. It is a strong point, it seems to me, that the authorities did actually take notice of Don Procopio's notice. I was in his house when the authorities (I speak of the authorities in general, not knowing each one in particular) sent to know where we thought another lamp would afford the most protection. We went, according to appointment, at 4 o'clock p. m. the same day, to consult, and the lamp was placed at the upper corner of the church, so as to give light behind and in front of the church. The chief of police was there in person. This was, it seems to me, a virtual acknowledgment of notice, and I did not think there was any question. If more details, &c., were required to fill up his report to be forwarded to the government, these could have been given at any time. I am not sure that all such details as a full report would call for are absolutely necessary before protection can be claimed under the law. I believe the case would stand the test of law for the purposes of protection. Of course it is to be regretted that there is any question about it. A contract may not be drawn in exact legal form, but if, with a knowledge of this, work is done or payments made, the contract takes a binding form, and so it seems to me in this case. The authorities took notice of our opening a new place of worship by placing another lamp for special protection.

Yours, very truly,

M. N. HUTCHINSON.

[Inclosure 2 in No. 243.]

Mr. Foster to Mr. Sutter.

LEGATION OF THE UNITED STATES,
Mexico, February 12, 1875.

SIR: I thank you for your full and interesting report of the assault upon the Protestant church at Acapulco, No. 27, of February 3, with a statement of the subsequent events. I will transmit a copy of it to the Department of State for its information and action. I have called the attention of the government here to the condition of affairs as represented by you, and I am assured that the federal government is doing and will do all within its power to punish the criminals and preserve the peace.

Permit me to call your attention to a point which does not sufficiently appear in your letter to the governor. You will notice that in my letter I referred only to the murder of Americans, and not to Protestants in general. While we desire to see full enjoyment of religious worship for all, we can only officially interfere in behalf of American citizens.

Mr. Skilton has not yet returned.

Very truly,

JOHN A TTER, Esq.,
sul, Acapulco.

JOHN W. FOSTER.

[Inclosure 3 in No. 243.]

Mr. Sutter to Mr. Foster.

No. 28.]

CONSULATE OF THE UNITED STATES,
Acapulco, February 7, 1875.

SIR: Confirming to you my communication (No. 27) of the 3d instant, I have the honor to report to-day that on the afternoon of the 3d, just as General Alvarez was ready to leave, a second demonstration, similar to the one of the day before, was made; otherwise the town is quiet, although in case of need I fear the State militia now here could not be relied on, and although menaces against the lives of the wounded Protestants, who are being taken care of together in the house of Mr. Procopio Diaz and guarded every night by some twenty resolute and well-armed brethren, (Mr. Hutchinson's servant among them,) are repeatedly and openly uttered. The wounded men, I am happy to say, are all out of danger.

Yesterday afternoon I called upon the district judge to inquire if anything relative to the massacre had been elicited. He replied that everything remained *in statu quo*,

the only culprits discovered so far being, singularly enough, the two aggressors who lost their lives in the affray, the second one having died on last Sunday, the 31st, from a pistol-shot received during the affray of the 26th.

Very respectfully, your obedient servant,

JOHN A. SUTTER, JR.,
United States Consul.

Hon. JOHN W. FOSTER,
*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America, Mexico.*

No. 418.

Mr. Foster to Mr. Fish.

No. 249.]

LEGATION OF THE UNITED STATES,
Mexico, February 23, 1875. (Received March 15.)

SIR: The 22d of February was observed in this city by the display of the national flags on all the public buildings of the federal and district governments, and on the houses of the various legations, and by complimentary editorials in many of the daily newspapers.

As on the previous anniversary of the birthday of Washington, the American residents in this capital assembled at this legation, as members of the American Benevolent Society, an organization which answers the double purpose of relieving the wants of sick and destitute countrymen, and of constituting a bond of social union.

The number of adult male Americans at present residing in the federal district is about one hundred and thirty, of which sixty are heads of families, representing an American population of about three hundred and fifty. The occupations of these residents are: A few merchants, several teachers and professors in private and public schools, editors, officers, and employes of the Mexico and Vera Cruz Railroad, civil engineers, superintendents of estates, mechanics, and laborers.

The completion of the railroad from this city to Vera Cruz, and the establishment of a regular line of steamers between that port and New Orleans, have made this city and the interior of the republic easily accessible from the United States. The number of American visitors has consequently greatly increased during the past year, and the increase promises to be much greater in the future. The salubrity of the climate, the uniform temperature, throughout the year, of this valley, and the whole of the central plateau of Mexico, (the thermometer in this valley varying but a few degrees from 67° Fahrenheit during the year,) and the natural and historical attractions of the country make excursions to Mexico at all seasons very agreeable.

I am, &c ,

JOHN W. FOSTER.

No. 419.

Mr. Foster to Mr. Fish.

No. 252.]

LEGATION OF THE UNITED STATES,
Mexico, February 26, 1875. (Received March 15.)

SIR: In my dispatch No. 225 of the 22d of December last, in transmitting to you the law passed by the last Congress, enforcing the con-

stitutional-reform measures, I referred to the opposition which its passage encountered, mainly because it contemplated the suppression of the Sisters of Charity, the only remaining religious order in this republic, all other monastic orders having been abolished by the Juarez government before the French intervention; and in my No. 239 I communicate the fact of the departure of the Sisters of Charity from the country. These events have created in the republic an unusual degree of feeling and excitement, and have awakened anew the hatred and opposition of the Catholic clergy and their adherents to the present liberal administration.

The opposition has manifested itself most prominently in what are termed the "protests of the ladies," documents which were drawn up with the ostensible object of expressing sorrow for the departure of the Sisters of Charity, but whose real purpose and effect was to attack and denounce the present government and weaken its influence with the people. These "protests" have been largely signed and promulgated throughout all parts of the country, and embrace the names of the wives and daughters of many of the members of Congress and federal officials, as well as of leading citizens of influence and wealth; and this latter feature gives them their chief significance. I inclose a copy and translation of the protest, signed by the ladies of this city, which, notwithstanding its bitterness, is more moderate and temperate in its language than some of those issued in other cities. The subject has also been discussed with much acrimony in the daily press of this capital, by the conservative or Catholic organs on the one side, and the combined liberal press on the other, the discussion having had the effect to unite the liberal opposition newspapers with the supporters of the administration in the defense of the law, which law is regarded as the natural sequence of the constitutional principles of 1857, and not peculiarly an administration measure.

The article which I inclose from the official newspaper, the "*Diario Oficial*," refers to the efforts of the conservative, or church party, to form a union with the liberal opposition, and to the rumors of such a combination, to bring about a revolution, and to the unqualified rejection of such a coalition by the liberal opposition press and party. I also inclose an article from the "*Monitor Republicano*," one of the most pronounced of the liberal opposition papers, in which in most enthusiastic language it indorses the action of the President, and quotes approvingly an editorial from the "*Diario Oficial*" referring to the "protests" and the treatment of the officials whose wives have signed them. I also transmit an editorial from the "*Porvenir*," whose editor, Mr. Vigil, is one of the most intelligent writers in Mexico; and an editorial from the "*Voz de Mexico*," the most temperate and able of the Catholic organs.

These newspaper articles will convey some idea of the character of the discussion now being carried on, but to fully comprehend the political situation of the country it is proper to refer to other matters.

The long, and, for Mexico, profound peace which the country has enjoyed has not fully realized the natural expectation of a revival of business, a rapid development of industries, and an era of prosperity. For the past two years the leading industry of the country, silver-mining, has been much depressed, many of the mines being at present only nominally worked, among which is that of the largest company in the republic, the "*Real del Monte*," which has had the effect to leave many laborers without employment. There is a general complaint in mercantile circles of a lethargy and dullness in trade. There has been a repeated delay in the promised construction of railroads to

the interior, to the Pacific, and to the American frontier, which has been the greatest industrial demand of the country. Immigration has not set in, as was hoped, with the restoration of peace and a stable government. As a consequence, there exists with many a feeling of disappointment, and with others a spirit of restlessness, which to some observers of the situation forbodes pronunciamientos and revolution; and of this state of the country the conservative, or church party, has been very ready to take advantage. The departure of the sisters of charity and the "protests of the ladies," added to Pope Pius's denunciation of the Mexican laws of reform, have revived much of the old religious fanaticism and hatred of the present government, which was believed to be dying out. This spirit has developed itself in the number and strength of the banditti in different parts of the republic, and in attacks upon Protestant Churches and adherents. Inappropriate as it may seem, the rallying-cry and professed object of the robber-bands and guerrillas is that of the defense of the church. These bands, whose numbers are swelled by the numerous unemployed laborers, have become so formidable in the States of Michoacan and Jalisco as to give currency to the report of an organized revolution. But, in view of the recent vigorous measures ordered by the authorities, it is anticipated that these bands will soon be suppressed or scattered. Frequent notices of outrages upon Protestant congregations or individuals appear in the daily papers or are reported to the superintendents of missions in this city.

The common remark is that the country was more prosperous in the times of revolution than in these days of peace. The army then gave employment to the idle laborers, their subsistence occasioned a large expenditure of money, and their movement created life and animation. The people, accustomed to war and changes of government, become restless under the present comparatively long peace. But the administration of Mr. Lerdo is impressed with the necessity to the nation of a continuance of peace, satisfied that under its influence, in time, the republic will experience such a revival of business, mining, and agricultural and manufacturing interests as will give the country an era of prosperity never before enjoyed; and it will be successful in repressing outbreaks so long as the army remains faithful. The last official report places its strength at 23,000, and it is better armed, equipped, and disciplined than in any former period in the history of the country. As I close my dispatch there are rumors of a threatened pronunciamiento, and of the discovery of a plot, the chief instigator of which was General Rocha, division-general and commander of the federal troops in this capital, which had for its object the deposition of President Lerdo. While there has been some basis for the rumors, the conspiracy does not appear to have had any definite organization or well-settled plan, and the executive authority was not greatly endangered by it. It is doubtless sufficiently grave, however, to require the removal of General Rocha from his command.

Within the liberal party there are no differences of principles sufficiently marked upon which to organize an armed opposition to the present administration. It could only be of a personal character, without justification or palliation. Revolution at present can be organized only upon a reactionary basis, and that does not appear probable.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 252.—Translation.]

THE PROTEST OF THE LADIES.

[From the "Monitor" of January 27, 1875.]

The decree which, under the title of the organic law of the constitutional amendments, was published a few days since, contains nothing more than unqualified insults to the sacred religion which we glory in professing; and it has justly been considered as a new edict of the most atrocious persecution against the Catholic church in Mexico. A like resolution would appear barbarous and senseless even though it should be looked upon as dictated by people still sitting in the darkness and shadow of death. So much, indeed, it contradicts and attacks the most rudimentary principles, the most common ideas of reason and morality, we find no terms which are sufficient to paint the horror with which we have beheld its publication, and with all sincerity we ask our God to concede to us the powerful aid of His grace, to the end that we may not remember with anger the names, forever mournfully memorable, of its unhappy authors.

And it is not these whom we address at this time, nor do we supplicate them to do anything for us. How could we flatter ourselves that our words would be heard and our tears pitied by those who have shown themselves deaf to the sobs of the helpless, to the anguished cry of their native land, to the upbraidings of their own conscience, and to the dreadful threats of Heaven?

No! We well know what it is, and, moreover, how toward us the abominable sect feels which to-day tyrannizes and insults Mexico; and it is not our desire to offer to it a new occasion, which it certainly would gladly improve, of responding with insults to our complaints.

We speak, because we believe in the imperative obligation of giving public testimony of our faith and of our affectionate love for the Holy Catholic Apostolic Roman Church, unto which to-day, more than ever, we are pleased to cry as to our good mother and infallible master. It shall never be said that when, in all parts of our unhappy land, iniquity is anathematized, we kept silence—we who have been born and who live at the foot of the sacred mountain of Tepeyac, (Guadalupe.)

The most august victim of the sect, the glorious captive of the Vatican, has already traced for us the path which we ought to follow in these moments. With his word, to which we listen, and to which we always shall listen with filial veneration, and with his example, which rejoices the just of earth and the angels in heaven, the great pontiff teaches us that it is not possible, in any case, to accept the facts of compromise, and which involve the sacrifice of conscience.

And since Pius presides in Israel, with Pius we wish to be, and Pius alone we desire to hear. Let the men all learn this in whose hands is to-day the government of this our unhappy, and therefore more loved, nation.

But when that worthy mark of Christian fidelity, the despair of hell, shall fail, how can we shut our eyes to that which also is offered for our imitation, the generous martyrdom of the Sisters of Charity. Voltarian liberalism and free masonry, allied in eternal enmity to the peace and prosperity of Mexico, and without doubt more savage even than the very barbarians of our frontier, drive from their native land these sacred messengers of the mercy of the Most High. During a period of more than three and a half centuries hundreds and hundreds of ships have carried to Europe the rich products of our mines. In a few days its astonished shores will receive another Mexican treasure, and one more, incomparably more, precious than all the gold and all the silver of our mines. Our sisters by nativity, our sisters by love, our sisters by faith in our God and Redeemer Jesus Christ, have been driven from us, teaching us to value less highly the interests of earth than those of heaven; and we should merit all these misfortunes if we should forget its last most eloquent lesson.

Another fair page in the history of our Mexican church, by no means now meager in glory, has been written. We shall meditate upon it, we shall repeat it day and night for our edification, and for the consolation of our homes. Yet few, so we desire to think, in Mexico, are the enemies of our faith, and small and despicable are they in themselves, and vastly more so when placed by the side of the holy and patient prelates upon whom the Lord has here confided the custody and propagation of His Word.

But although they may increase in number and importance, we do not fear them, No! Before them and before the entire world we declare that, without wavering a jot, and with all the energy of which we are capable, we condemn and detest whatever our venerated pastors condemn and detest, and that, with the divine aid, we are resolved to sacrifice everything for the defense of Catholic faith, and for the glory of our Lord Jesus Christ, to whose blessed name be given all the praise for ever and ever.

MEXICO, *January 20, 1872*, on which day the church recalls the glorious martyrdom of Saint Sebastian.

[Inclosure 2 in No. 252.—Translation.]

EVERY ONE AT HIS POST.

[From the "*Diario Oficial*," February 18, 1875.]

The reactionary periodicals, thinking themselves strong, perhaps to the extent of creating a revolution, because there are some bandits in Michoacan who rob and murder to the cry of "death to the constitution," and because some ladies have signed a protest against the organic law of the constitutional amendments, have sought in every possible manner to create an appearance of fusion with those citizens who, although they belonged to the liberal party, oppose the government of the citizen President. The hopes in that direction which the said publications were able to awaken in moments of foolish short-sightedness, in an effort to intimidate the supreme administration of the republic, have been wonderfully weakened by the decisive, worthy, and most honorable declarations which the organs best representative of the liberal opposition press have recently made. We, so those organs have said, are not in accord with the politics of the government; we do not approve some of its actions; but we have been and shall be liberals, and the instant it might become necessary, we should unite our forces to those of the executive, in order to combat the anarchical tendencies of the clergy, and save from all danger the institutions conquered by the great liberal party in exchange for much bloodshed upon the fields of battle.

To divide in order to rule is a plan which the ultramontane writers will not be able to carry into successful execution under the present circumstances, nor under other similar circumstances that may arise hereafter. In questions of detail, in affairs of secondary importance, it is possible for some liberals to be found on the side of the conservatives, but let not the friends of Cobos and Marquez dream that there is a single liberal who will aid them in promoting a revolution for the object of destroying the venerable fundamental pact which rules the Mexican people. Should there be any papist so senseless as to seek to renew the misfortunes of the three years' war, he would be instantly and ruthlessly punished, by obtaining nothing else than a realization in practice of what we, the admirers of Juarez and Ocampo, desire and shall at last obtain—the complete unification of the great liberal party. Let not, then, the reactionists rely upon any but themselves, because if, at any time, they should be able to endanger the independence of the country or the integrity of the democratic institutions, all we liberals, absolutely all, will become strictly identified with each other in the salvation, even at the cost of our happiness and our lives, of objects so sacred.

[Inclosure 3 in No. 252.—Translation.]

THE PROTESTS OF THE LADIES.

[From the "*Monitor*," February 11, 1875.]

We omit to-day our bulletin in order to give place to an important article from the "*Diario Oficial*." In it is expressed, in a manner sufficiently clear, the opinion of the President upon the stormy question of the protests of the ladies.

The organ of the government manifests all the respect which the executive maintains toward the Romanist belief, and of which this, as every other religious belief is worthy, so long as it does not tend to trample under foot any law. Without diminishing that respect, the opinion of the executive is clearly expressed, making known the firm resolution of the President to preserve intact the authority of the state against the unlawful aggressions which the faith, the revelation, and the traditions of Rome may make.

This resolution, taken in perfect accord with the philosophy of our system of government, is the more worthy of applause in so far as it tends to preserve and assure the rights of the majority of the inhabitants of Mexico and of all the citizens of the republic. The "*Diario Oficial*," interpreting without doubt the convictions of the first magistrate of the republic, indicates that he, sensible of the mission which has devolved upon him in our day, will sustain, so far as depends upon the executive, the supremacy of reason, of discussion, and of history, those three powers creative of the republican system, over the prejudices, over the tyranny of fanaticism in thought and conscience, over the negation of facts and of experience.

If the notable article of the "*Diario*," which we insert immediately following, is carefully considered, it will be found that, in the points to which it refers, the opinion of the President is at the summit of the moral and intellectual progress of our times, making apparent the narrowness of view, the smallness of mind, and the unqualified ignorance with which the protest was written which the ladies were made to sign.

The "*Diario*," as ourselves, justly excuses the action of the ladies through the innate goodness of the Mexican heart and the sincerity and purity of religious beliefs in the heart of woman.

We applaud sincerely the resolution of the executive to regard with indifference the authors of the protests, so long as they do not occasion any disturbance of the public order. But we hope it may take energetic measures respecting the employés who have permitted their wives and those persons who are dependent on them to sign that protest of disobedience to the civil authorities. Without any partisan sentiment participating in these measures, and, still less, any sentiment of vengeance, which can have no reason for existing, they ought, in our opinion, to be dictated to the end of assuring the loyalty of the employés of the administration.

Notable, we say, and of extreme importance appears to us the article of the "*Diario*." It is the result of thorough convictions, the fruit of vast information, and affords the grateful feeling of knowing, in a manner clear and certain, that the federal executive holds on the question views which, as we have said, are in perfect accord with our system of government. Here follows the article :

"As the days have been passing there have been disclosed certain acts of sufficient importance on the subject relative to the protests of some ladies against the organic law of the constitutional amendments. Even here in the capital of the republic, several respectable ladies have stated through the press that it is not true that they affixed their signatures, (as it appeared in the published document;) their names, therefore, being forged, or they having signed in blank on its being told them that it was only to have reference to an adieu to the Sisters of Charity.

"If this has taken place so near the supreme powers of the federation, what shall not have passed in the interior? How many names of ladies will appear in the lists published by the Catholic organs of the States who do not even exist? How many ladies will have been obliged to sign in blank by the threats of the nearest cura of the village?

"To gain ground for the propaganda by means of women and of the ignorant has always been the tactics of the Roman clergy, openly confessing its impotence to open for themselves a way by means of intelligence and light.

"Therefore the satellites of the Vatican have murdered reason since the first councils, and have invented the faith. Therefore they have suppressed discussion and created revelation. Therefore they have shielded themselves with the traditions and fought against history. But at this time, to shield themselves with the respectability of ladies, some of them most worthy and well known, in order to insult the authorities of the republic and incite to disobedience of the law, has been at least an act of inexplicable cowardice. To develop the fanatical power of the confessional in order to thrust forward into public discussion the most venerated object that we all possess, which is the mother of the family, will be able well to please the dark designs of those who are called the ministers of Jesus; but will disgust, without doubt, every sensible man, whether liberal or not, within or without the republic. And above all, to have deceived the ladies in order that they should subscribe to a document which they had not read, together with the circumstance of said document being drawn up in such a manner that they have been exposed to the ridicule which not only the penny-a-liners of the periodicals but even the composers of country-dances have made of it, has been the crowning ornament of a work the most contraproducing in its effects which its unfortunate authors could have conceived.

"A protest, dignified, measured, exclusively confined to stating the dissent from the organic law as regards the religious point of view, if it is true that there is place for this, would have produced at least the effect of commanding public respect.

"An insulting pasquinade like that which the ladies have been made to sign, a writing which, more than anything else, demonstrates the insolence of those who lose power and influence in worldly affairs, never can have a claim to the good opinion of cultivated society.

"For ourselves, it will not surprise us, for the same reason, that many of the ladies who, influenced by the innate goodness of the Mexican heart, or by the purity of their religious beliefs, subscribed the document in question without becoming informed of its contents, should withdraw from it their names, as several other ladies have already done.

"Having said this, we now give our private opinion on an incident which some colleague has pointed out, reserving what the supreme government might resolve touching said point. That private opinion is whether the wives of the employés have done well who have signed the protest.

"It is clear that the wives of the employés can hold in private the political or religious beliefs which may appear to them best, but at the same time it appears to us evident, granting that the employés have promised solemnly to the nation to protect and cause to be observed the constitutional amendments, that they ought not to permit their wives, the persons who are dependent on them, to publish protests against that which they themselves have promised to obey under all circumstances and in all

places. No one is authorized to attack the laws, and neither can the priests do so on the pretense of the independence of the church. If a proclamation exciting to a revolt against a legitimate authority has the character of a crime, the same follows, and with greater reason, if it has reference to laws so worthy of respect as the fundamental law of the country. Let the signers of the protests endeavor to learn the criminal code and have a care, for their own good, not to suffer themselves to be seduced too far by their anti-liberal enthusiasm.

"There will be indifference on the part of the government respecting the protests and their authors, so long as they are nothing else than a combination of words without effect; but the same conduct cannot be pursued, if with them as a motive or a pretext, they should claim to trample underfoot any one whatsoever of the laws in force."

[Inclosure 4 in No. 252.—Translation.]

THE LIBERAL PARTY.

[From the "*Porvenir*," February 16, 1875.]

The high pitch of excitement to which the press has arrived in these last days, occasioned by the provocations of the reactionary papers, causes us to give utterance to some views which appear to us opportune, and which with pleasure we submit to the judgment of our enlightened colleagues. In these provocations there is a studied purpose, which it is not difficult to discover upon a little reflection. The party which bears the name conservative has an inward consciousness of its own insignificance, and very well knows that, in itself alone, it is incapable of producing even a moderate disturbance; that, on the other hand, as it does not dispossess itself of its old mania for getting control of the supreme power, in order to disseminate its retroactive theories, it seeks outside itself these elements which it lacks, persuaded that any kind of disturbance whatsoever will favor in some measure its bastard views. Hence proceeds, without doubt, that persistent eagerness of casting upon the liberal party the most shameful insults. The Machiavelian artifice consists in irritating a powerful adversary, in driving it, if possible, to the extreme of committing violence, in compelling it to overstep the limits of moderation and prudence, in order to give itself afterward the airs of a victim to excite the compassion of the masses, to work, in this manner, upon the public feeling in order to conquer the sympathies, which, hereafter, may facilitate its accession to that power which it so much covets, as a commentary upon that sentiment, "My kingdom is not of this world."

The liberal party ought, under these circumstances, to exercise self-control, to repress with a firm hand the anger provoked by insult and diatribe, to look with disregard upon these jesuitical intrigues, and to find in its republican faith the inspiration of the conduct which it should observe. The liberal party, if it wishes to maintain itself at the height of its civilizing and patriotic mission, ought not to be taken in the net which is spread for it, nor to forget for a single instant the great principles which form its programme, in order to descend to the muddy ground to which it is invited. On the contrary, the more intemperate may be the clamor which is raised against it, the more to be condemned may be those measures which are brought forward to cause it to abandon calmness and moderation, the more the liberal party ought to sustain the dignity of its rôle, undisturbed by the insults of its rancorous enemies maintaining the noble and serene attitude which comports with strength and justice.

We are too far from the French Revolution to make it necessary for us to go to its ensanguined pages for our inspiration. In Mexico the revolution is an accomplished fact, all the reforms are consummated, all the elements of retrogression are dispersed. Here, we have no monarchy to destroy, no nobility to abolish, no rights to establish. The clergy, which has been the great enemy of liberty, has lost beyond remedy that great influence which it exercised in times not far remote; and to-day it struggles in vain to recover it. On the other hand, it is proved that the bloody excesses of the French Revolution only served to compromise liberty, because, impelled by a spirit of vengeance against everything that reminded it of the past, it was willing to violate conscience itself, penetrating into its sanctuary in order to substitute one tyranny for another.

We have done something better than to worship the goddess Reason; we have separated church from state, that is to say, we have erected an insuperable barrier against the intrusive hand of the priest being raised to wound liberty in its political principles; and against the power of the government doing likewise, by violating the conscience, the first of individual rights. Very near us is the example we ought to follow; the American democracy is the great beacon light toward which is directed the gaze of all those who see in the republic the saving institutions of the people, the protective banner of their rights, the shield of all the guarantees which give security to life and

property. Washington and Franklin, those fine types of republican honesty, of unsullied rectitude, of practical good sense, are the models that the liberal party ought to place before themselves, setting aside the sinister figures of Danton, Robespierre, and Marat.

Finally, the liberal party ought never to forget that its social and political mission is not one of vengeance, but of justice; that if the removal of the obstacles which obstruct its course imposes upon it the necessity of making use of measures which shall be destructive of such obstacles, this does not signify that destruction alone has a place in its programme, as the enemies of liberty every hour assert. On the contrary, the revolution has been and is the precursor of the reign of reason and morality; it follows no creed but guarantees all, limiting itself to opposing proper safeguards to the disturbers of order, who endeavor in their own interest to revive a dying fanaticism. Persecution would be the means best calculated to favor the Machiavelian tendencies of the clerical retroaction; meanwhile the severest punishment that can be inflicted upon it for its insolence is to leave it to devour its own wrath, applying to him who may make himself guilty by attacking the public tranquillity the law and nothing but the law. Such, in our opinion, is the course the liberal party ought to follow in the present crisis.

JOSÉ M. VIGIL.

[Inclosure 10 in No. 252.—Translation.]

MODERN REPUBLICANS.

[From the "*Voz de Mexico*," February 25, 1875.]

Lamentable is the situation of our country, oppressed by so many misfortunes, which, from year to year for a long time, it has been supporting with abnegation and without uttering hardly a complaint. The government, which ought to have the greatest zeal for its prosperity and aggrandizement, appears to be most zealous in causing it to pass through every kind of trial and suffering. It is in vain that the official and subventioned press pretends to picture the country as voyaging under full sail over the smooth surface of an unruffled sea whose waters are not disturbed by the slightest wind. It is useless that the writers of the government still continually present the republic to us as on the highway of prosperity and progress. In vain it is that they seek to persuade the nation that it enjoys ample and absolute liberty, when there weighs upon it the most mournful, shameless, and terrible tyrannies.

The Mexican people, which confronted a struggle of many years, already tired of civil revolutions, was seeking peace, was desiring tranquillity and rest under the shelter of laws protective of true liberty and of labor.

Dimly glimmered the hope that some day these laws would be realized, and that the freedom of worship, guaranteed by one of them in spite of the wishes of the nation, would become a fact.

Many times it had been seen that the nation was called sovereign only to suffer a new mockery and to have cast in its face a new abuse. It beheld, at different epochs, its liberties trodden under foot, and it nourished the hope that it might be able, at least in the privacy of its homes, to eat the bread gained by toil under the sweet protection of a religion of peace and charity, which it professes with all its heart.

But vain were all its illusions. The persecution of Catholicism continued with more zeal; talent and virtue being declared pernicious, because in the arena of discussion they destroyed one by one the old sophisms of the modern liberals. Behold here the origin of the imprisonment and expulsion of the seminary professors effected in the year 1873.

The modern athletes of liberty and reform, not being able to oppose a tribune to a pulpit—one professor's chair to another, one science to another science—appealed to the supreme reason of injustice, and compelled virtuous men to depart from the national territory, who for being foreigners could be calumniated, as was shown in the expositive portion of the sentence pronounced by the supreme court of justice.

But this blow given to Catholicism was not sufficient. While the modern liberals shout philanthropy, improvement, liberty, and progress, at the same time that they are tyrannizing over the people, abandoning the poor, slaying industry, and causing commerce to languish, the Sisters of Charity, those noble daughters of Vicente, those martyrs of sacrifice, those heroines of self-denial, following the rules which their holy founder had marked out for them, were giving food to the hungry, clothing the naked, comforting the afflicted, sheltering the fatherless, succoring the aged, and lavishing upon humanity all the aids which Christian charity always suggests, without ever publishing abroad their holy and noble deeds.

The modern reformers, not being able to present us a type of character like that of the Sisters of Charity, and seeing that these daughters of the Catholic Church were teaching by example and not by words, resolved in the dark caves of their satanic reunions to drive from the country virtuous and holy women, whose only crime is the sublime virtue of charity. The deceptions being seen, which the people continually suffer in observing, that the deeds contradict the words of these modern reformers, they appealed, as they always do, to the supreme reason of tyrants. And as in order to obtain their purpose the liberals are never backward in the choice of measures, calumny, insult, and language worthy of gambling-dens were uttered in the chamber of Congress by those who ought to be ashamed to bear the name of liberals.

Behold here what the Mexican people has encountered in exchange for the well-being for which it hoped. In the place of a government which seeks the good of the country by finding men of recognized fitness for the high officers of the republic, behold it surrounded by beings without faith and without patriotism, but sufficiently servile to obey the most absurd orders of him who holds the reins of government, for the privilege of holding fat and lucrative offices.

Poor Mexican people! God grant that the despots who humiliate thee, in proportion as they proclaim thee sovereign, may at least be consistent with their doctrines and not continue oppressing thee in thy liberty, in thy rights, in thy beliefs, until they compel thee to grasp the scepter of thy proclaimed sovereignty, causing the sword of thy justice, in spite of thyself, to fall upon those who are called thy servants and who so much abuse thy patience.

The liberal periodicals are continually filled with articles that feign the loftiest contempt for the protests which, signed by hundreds of persons, are published daily. What kind of republic is this in which the very men who proclaim the sovereignty of the people are the first to ridicule the opinion manifested by thousands of Catholics?

Their inconsistency stops not here, but they are filled with rejoicing and leap for joy because there are a few persons who, disheartened by the liberty in which they live, retract their signatures, which they had affixed to a protest, in order not to become prejudiced in their interests. These retractions signify that the signatures are removed from the paper, the vow against the protested law remaining in silence. These retractions have a double testimony against the liberals—the reprobation of detested law and the fear of the tyranny which dictated it. Vain is the joy over these retractions, when they are a new argument against the republican tyranny.

These are the modern liberals, and these have always been they who have proclaimed the sovereignty of the people only to disgrace and mock it, by dictating barbarous, inconsistent, and despotic laws so soon as they have been able to elevate themselves above the people upon the high seats of power.

No. 420.

Mr. Foster to Mr. Fish.

No. 253]

LEGATION OF THE UNITED STATES,
Mexico, February 27, 1875. (Received March 15.)

SIR: Under date of the 14th instant, the consul at Acapulco reports to me that no action has been taken to arrest and punish the murderers of the American citizen, Henry Morris, killed in the assault upon the Protestant Church at that place on the 26th ultimo. He states that the judicial authorities are powerless to make arrests until a sufficient force of federal troops are placed at their disposal, the State militia sympathizing openly with the priest (the alleged instigator of the assault) and his party; that a large petition has been presented to the governor demanding the removal of Protestants from the municipal council and their banishment from the country; that the district judge and governor, having confessed their inability to protect the native Protestants in the town of Acapulco, have been advised to leave as speedily as possible; and, in a communication of the 17th instant, the consul reports that, with a few exceptions, the Protestants have all left, a number of them having taken refuge in San Francisco, Cal., and that the town is now quiet.

On the 23d instant, I received a note from Mr. Lafragua, in reply to my note to him of the 8th instant, (a copy of which I inclosed to you with my dispatch No. 241,) in which, in connection with some reference to the religious aspects of the affair at Acapulco, he states that, from the time the events were brought to the attention of the Mexican government, it has been issuing the most decisive orders for the arrest and punishment of the criminals, and refers to the measures which it has dictated as of the most extraordinary character. He also alludes to the omission of the Protestant congregation to give the legal notice of its establishment; and also to the fact that the name of Henry Morris, the murdered American, does not appear in the register of matriculation of the Mexican foreign office.

In my answer to Mr. Lafragua, under date of the 25th instant, I took occasion to state explicitly that the object of my intervention in the affair in question was on account of the murder of the American citizen, which would relieve me from noticing the religious aspects of his note. In view of the report of the consul of the situation at Acapulco up to the latest dates from that place, I could not refrain from expressing regret that Mr. Lafragua had not furnished me with some information in detail as to the specific character of the extraordinary measures dictated by his government, or at least to have been informed that some favorable results had followed these measures; in which connection I gave him some of the facts reported to me by the consul in the communication herewith inclosed. In concluding my note, I took occasion to say that the fact that Henry Morris did not appear registered in the foreign office could not affect the case, as he was certified to me by the consul at Acapulco as a native of Boston Mass., and as an American citizen
I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 253.]

Mr. Sutter to Mr. Foster.

No. 29.]

UNITED STATES CONSULATE,
Acapulco, February 14, 1875.

SIR: Confirming to you my report, No. 28, of the 7th instant, I have to acknowledge the receipt of your communication of the 7th instant. The judicial authorities can do nothing, having no power whatsoever to make arrests; the entire matter must remain as it is until a sufficient force of federal troops are placed at his disposal, the State militia sympathizing overtly with the priest and his party, which in fact comprises the entire population. A petition signed by 400 or 500 persons, demanding the removal of Protestants from the (ayuntamiento) municipal council, and their banishment from the country, and accusing the Protestants of having caused the late disturbances by their alleged insults offered to the Catholics, has been presented to the governor. A gentleman who has read it assures me that this document is ably worded. One of the consequences of these troubles is that the common people believe that the terms "protestant" and "foreigner of Anglo-Saxon or German race" are synonymous, and very likely are confirmed in their belief by the priest. The Protestants, fearing for their lives, applied to the district judge and governor for protection. They were told that it was impossible to afford them any protection in the town, but that the fort, the only place of safety, was open to them. They were also advised to leave the town as quick as possible, which I think is the best they can do, and they have already commenced to scatter and hide from persecution.

Very respectfully, your obedient servant,

JOHN A. SUTTER, JR.,
United States Consul.

Hon. JOHN W. FOSTER,
*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America, Mexico.*

[Inclosure 2 in No. 253.—Translation.]

*Mr. Lafragua to Mr. Foster.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 23, 1875.

SIR: I have rendered an account to the President of the Republic of the note of your excellency, dated the 8th instant, in which you are pleased to communicate to me the substance of the report which the consul of the United States in Acapulco has made to your excellency relative to the events occurring in that city on the occasion of the assault which was made upon a Protestant Church.

In reply, I have the honor to state to your excellency that, since those unfortunate events came to the knowledge of the government, there have been issued, and there continue to be issued, the most decisive orders for the arrest and punishment of those who may appear to be guilty; and, as an evidence of the activity with which this is being done, the fact appears that the governor of the State of Guerrero has proceeded personally to the place of these occurrences, in order himself to dictate the energetic and opportune measures which may be necessary to prevent the crime from remaining unpunished, and to re-establish security and order in Acapulco.

Whatever may be the views and judgment of the consul of the United States in that port, they can be considered as nothing more than personal opinions, inspired, perhaps, by the fears of the moment, since the escape and concealment of the criminals does not signify inability nor lack of will in the authorities to arrest and punish them. It is possible that there be delays, excusable and even necessary, when, under circumstances so unexpected as the present, there does not exist a sufficient force at immediate disposal to repress an outbreak; but this does not signify that there is a disposition to leave it unpunished.

Moreover, it appears just, in order to comprehend the difficulties and delays that are liable to be encountered, to take into consideration the peculiar circumstances of the countries in which certain events take place.

The consul in Acapulco cannot be ignorant of the fact that Protestant worship was a new propaganda among a people who, unfortunately, have not been able to attain to that degree of civilization to enable them to accept without aversion religious tenets which they disown; and it is well known that the religious sentiment is one of the most sensitive, and that when attacked it is all the more irritable. Therefore it will not be strange that the great majority of that people conceal and protect the aggressors. The difficulty which the authority encounters from this source will not be insurmountable, but is indeed very grave.

The general government, on its part jealous of its authority, firmly resolved that the laws shall be complied with, and interested as much as any other that liberty and individual protection may be secured to native citizens and foreigners, has dictated extraordinary measures in the present case, in the hope that the ends of justice may be fulfilled, and that, in conformity with it, the criminals may suffer a sufficiently exemplary punishment to prevent similar deeds from being repeated, and to satisfy the ends of public retribution.

It is not amiss to make note of the fact at this time that, according to the report received, the Protestant Church, where the events occurred, was not registered in the office of the prefect, which, for that reason, perhaps, was not able to know the condition of the location, nor the hours of assembling, so that it might exercise its vigilance and place the church under the protection of the police.

Neither is Henry Morris registered with American citizenship in the register of matriculation in this Department.

It pleases me to renew to your excellency the assurances of my high and distinguished consideration.

J. M. LAFRAGUA.

His Excellency JOHN W. FOSTER,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

[Inclosure 3 in No. 253.]

*Mr. Foster to Mr. Lafragua.*LEGATION OF THE UNITED STATES,
Mexico, February 25, 1875.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 23d instant, in which, having referred to my note of the 8th instant to the President of the Republic, you make reply thereto. The tenor of this reply leads me to fear that your excellency has misconceived the object of my said note. It was not my purpose to enter upon a defense of the Protestant worship in Mexico. I have not in

my note of the 8th instant, nor in any other which this painful occurrence at Acapulco has made it necessary for me to address to your excellency, allowed myself to criticise the conduct of the government or make any demand in regard to this worship in so far as it relates to the Mexican people. While it is very natural that I, as the representative of a Government which has officially congratulated that of Mexico on the constitutional triumph and recognition of the principles of religious liberty, should watch with deep interest the practical enforcement of these principles, I have made the outbreaks of fanatical mobs the subject of diplomatic intervention only when American citizens have been assassinated.

The object of informing your excellency of the substance of the consul's report was to bring to the attention of the Mexican government the name of the American citizen assassinated, and the circumstances attending and following his murder, in the hope that the facts stated might furnish your government with additional motives for enforcing strict and decisive measures against his murderers; as also to notify said government of the responsibility, under treaty-stipulations, to the dependent family of the deceased, on account of the failure of the local authorities to furnish him the protection guaranteed to American citizens.

I may, therefore, be excused at this time from further referring to the general religious aspects of the occurrence as noticed by your excellency. I however deem it proper to state that the reports of the consul at Acapulco have been made in compliance with specific instructions from this legation; that, being for many years a resident of that port, he is doubtless an intelligent observer of the events; and that his statements are made upon his official responsibility as an officer of the United States. They are, moreover, substantially confirmed by the reports made by the local authorities of the government, as your excellency was pleased to assure me in one of our recent interviews.

I am glad to be assured in your excellency's note that the government has dictated extraordinary measures in the case in question, that the ends of justice may be fulfilled, and that the criminals may suffer a sufficiently exemplary punishment to prevent the repetition of similar deeds, and to satisfy the ends of public retribution. It would, however, have doubtless been gratifying to my Government to have been informed somewhat in detail as to the specific character of the extraordinary measures dictated, had your excellency felt justified in stating them; or, at least, to have been informed that some favorable results had followed these measures; especially so in view of the fact that up to the 16th instant not a single arrest had been made beyond the two wounded assailants found at the church, who have since died. It is true your excellency refers to the visit of the governor as one of the measures taken; but, so far as I have been informed, the only result of his visit was the public demonstrations of the criminals or their friends, and the presentation to him of the petition of a large number of the people demanding the removal of Protestant municipal officials and their banishment from the country. The consul reports to me that the judicial authorities acknowledged their inability to arrest or punish the criminals, or to afford protection to the Protestant residents in the continued absence of a sufficient force of the federal army, as the State militia sympathise openly with the priest (the alleged instigator of the assault) and his party. As illustrating the condition of the community, the consul, under date of the 16th instant, states that the Protestants of Acapulco, fearing for their lives, applied to the district judge and authorities for protection; that they were told that it was impossible to protect them in the town, but that the fort, the only place of safety, was open to them; that they were advised to leave the town as quickly as possible; that they have accordingly scattered and hid from persecution, a number of them having taken refuge in San Francisco, United States; and that the town is now quiet and the excitement dying out, the hated objects of the fury of the people having been removed.

Notwithstanding this gloomy picture, in view of the assurance contained in your excellency's note as to the measures adopted and the earnest determination of the government, I will rely upon the realization of its confidently expressed expectation to ferret out the criminals, and visit ample and severe judgment upon the murderers of the American citizen.

The fact, as stated by your excellency, that Henry Morris, the deceased, does not appear in the register of matriculation of the Mexican foreign office does not affect the case. He is certified to me by the consul at Acapulco as having been born in the city of Boston, State of Massachusetts, United States of America, and as being an American citizen. I will be reluctant to believe that his possible omission to attend to a formality of the foreign office will diminish the zeal of your excellency's government to secure the punishment of his assassins; and it assuredly will not influence my Government in its determination to require a vindication of his citizenship.

I have the honor to ascribe myself, with high consideration, your excellency's obedient servant,

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

No. 421.

Mr. Foster to Mr. Fish.

No. 255.]

LEGATION OF THE UNITED STATES,
Mexico, March 2, 1875. (Received March 15.)

SIR: In my dispatch No. 252, of February 26, in giving a review of the political condition of the country, in closing I referred to the rumors on that date of an intended pronunciamiento within the federal forces in this city which compromised their commander, General Rocha.

The first division of the Mexican army is stationed in this city, and is commanded by General Sostenes Rocha, who rendered signal service to the republic during and previous to the French intervention, and who commanded the successful assault upon the citadel in 1871 in behalf of President Juarez against the revolutionists. It is alleged that for some time past General Rocha has been surrounded in social life by many of the disaffected and most bitter of the liberal opponents of President Lerdo, who had weakened his attachment to the administration. He had recently been ordered by the President to the State of Michoacan to take command of the guerrilla bands, which had assumed somewhat formidable proportions in that locality. With the double purpose of preventing his departure from the city and of making a demonstration against the present government, more or less revolutionary, as success might justify, these malcontents induced General Rocha to agree to attempt a pronunciamiento. The occasion determined upon was on the morning of the 26th ultimo, when a public review and division drill was to occur in the suburbs of this capital. A lunch had been prepared by General Rocha for the brigade and regimental commanders, at which the plan was to be announced to them, and such of them as refused to go into the movement were to be immediately arrested and other persons assigned by General Rocha to their command, when the announcement was to be made to the troops and the pronunciamiento to be at once carried into effect. The executive was fully advised of the plans of the conspirators, and General Mejia, the minister of war, at the opportune time, went to the parade-ground in his carriage, without escort, and alone, quietly directed the return of the troops to their quarters in the city, and invited General Rocha to a seat in his carriage, with whom he returned. No reference was made by General Mejia to the intended pronunciamiento at that time; but on the next day General Rocha, being invited to the palace, voluntarily acknowledged his complicity, and alleged that he had unwittingly been made the dupe of the conspirators.

It is alleged that none of the brigade or regimental commanders had been consulted by the conspirators, and that not one of them could be counted upon to aid in any movement against the government; neither does it appear that there was any special organization or promise of support beyond General Rocha within the army.

General Rocha has been relieved of his command, and he, together with Generals Riva Palacio and Carrion, have been placed under arrest and ordered to quarters in towns distant from this capital. The two latter were generals with commissions, but without commands in the army. General Riva Palacio has been a prominent officer of the republican army, was a member of the last Congress, and has recently been distinguished in the press and political circles as a bitter opponent of President Lerdo. He has tendered his resignation from the army, which it is expected will be accepted and he be released from arrest.

Beyond these arrests the government will probably inflict no punish-

ments, although many of the conspirators are known, confident of its ability to preserve public order and maintain its authority without the sanguinary measures which have so often followed revolutionary attempts in Mexico.

A "revolutionary plan" has appeared in this morning's dailies, which it is supposed was edited by General Riva Palacio, and is alleged to have been sent to the revolutionary bands in Michoacan some weeks ago, and possibly was to have been the basis of the frustrated movement in this city.

I inclose a copy and translation thereof.

In a call which I made at the foreign office to day, I took occasion to congratulate Mr. Lafragua, and through him President Lerdo, upon the frustration of the "revolutionary plan," and to say that the United States felt a deep interest in the success of his administration, as it gave promise of a substantial and permanent government.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 255.—Translation.]

PLAN OF POLITICAL REGENERATION.

[From the "*Monitor*," Mexico, March 2, 1855.]

As every party which inaugurates a revolutionary movement ought, out of respect to society and to the country, to give an explanation of the motives which impel it, and of the reasons which it has for undertaking that enterprise, whatever may be the success which Providence may vouchsafe to it, we, the undersigned, in compliance with this sacred obligation, declare that—

Whereas the Mexican Republic is ruled by a government which has elevated abuse to the rank of a political system, by disregarding and violating all the principles of morality, all the sanctions of the fundamental pact, all the provisions of the laws in force, by corrupting society, dishonoring the institutions, and making impossible the remedy of so great evils in the pacific way which the laws mark out;

It being a democratic system which governs us, the public suffrage has been converted into a farce, because the President of the republic, by means of force, of bribery, and corruption, has caused what, in our present corrupt political system is called "official candidate," irremissibly to triumph. In virtue of this criminal administration, the Congress and the supreme court of justice, chosen by order of the President, besides being illegitimate, are not, neither are they able to be, independent in the exercise of their official duties; but, on the contrary, they are the blind instruments of the caprice of the executive, thus converting into ridicule the fundamental principle of the independence of the powers;

Whereas the federative principle has disappeared, because the sovereignty of the states, wounded every instant, scarcely exists, and the sport, not only of the President of the republic, but even of the little circle of men who form the coterie of the President;

By reason of this loss of the sovereignty of the federative entities, the President and even his favorites depose governors at their will, intrusting the power to whomsoever it pleases them, as it has happened in Coahuila, Oaxaca, San Luis, Puebla, and Yucatan;

Under this system, the governors of the States have no alternative but blindly to obey the central executive or to abandon the post to which the vote of their fellow-citizens has called them, which makes impossible a good administration;

Whereas in order to bring about this result, the President and his favorites have not been deterred in the use of measures, however much to be reprobated these may have been, including that of the promotion of dissensions in the bosom of the legislatures and local pronouncements in the States. And in order to legalize this they have extorted from Congress decrees which authorize the intervention of the federal forces in the local questions of the States;

Whereas in disregard of the rights of humanity and civilization, there has been kept back from the frontier States the petty subvention destined for the war which those suffering and heroic States are waging against savages, thus leaving them ex-

posed to the depredations of their natural enemies while, on the other hand, the money of the nation is wasted in useless repairs upon the palaces of Mexico and Chalultepec, in feasts and in commissions of real luxury, like that which was sent to observe in Asia the transit of Venus across the disk of the sun ;

The political party dominant to-day has sown the seeds of division in Mexican society, making illusory the amnesties granted to political mistakes, obliging the employés and functionaries to make unnecessary protests, and causing tolerance and concord to be regarded as incompatible with the spirit and principles of our democratic institutions ;

Whereas the public treasury is plundered in all branches at the caprice of favorites, without, up to the present time, the accounts of the expenditures of the government having been examined by the national representatives, as if all the funds which those in authority manage were their own property and not that of the people, of those who are servants only, and not masters ;

The President and his cabinet hold the dispatch of public affairs in the most complete disregard, without attending to it further than their personal pleasures dictate to the scandal of honest men and to the scoff of society ;

Whereas the administration of justice is thoroughly corrupt ; the supreme court itself, to the shame of the nation, pronounces contradictory judgments in similar matters, and district judges have been constituted into agents of the central government for the purpose of destroying the sovereignty of the States ;

The public instruction is a chaos, above all in that part which pertains to the federation, and the professorships are the sinecures of favorites ;

The municipal power has disappeared completely, and the ayuntamientos, (city councils,) officers of a superior order, have been converted into humble dependents upon the governors and prefects ;

Whereas the abuse, already elevated to a regular system, of each one of the *protégés* of the President or of his friends, having three and even four positions, and receiving three and four salaries, corrupts good administrations ;

And whereas, finally, by means of none of the ways which the constitution and the laws mark out is it possible to obtain the remedy for so great an evil, so great an abuse, and so great a crime :

In the name of God, of outraged society, and of the reviled Mexican people, we raise the standard of war, and proclaim the following plan :

ART. 1. The President of the republic, Sebastian Lerdo de Tejada, and all his functionaries and employés are not recognized.

ART. 2. Likewise, on account of the complete illegality of its origin, the so-called supreme court of justice and the so-called Seventh Constitutional Congress are not recognized.

ART. 3. All the governments of the States which may give their adherence to the present plan will be recognized as such until the complete triumph of the revolution.

ART. 4. In the State in which the governor does not adhere to this plan, the chief shall be recognized as such governor, who, proclaiming this plan, shall first occupy in a permanent manner the capital of the State.

ART. 5. The commanding general-in-chief of the regenerating army, upon occupying the capitol of the republic, shall issue an edict for the election of a President of the republic, which office can, under no circumstance, devolve upon the general-in-chief who may be in power at the time of the election, and for the election of president and magistrates of the supreme court of justice.

ART. 6. Until the day on which the President elected by the popular vote may receive the government, the general-in-chief of the army shall maintain the powers of war and the command of the republic, under the title of the depositary of the executive power.

ART. 7. The States shall be recognized by the same terms being observed as those designated for the reorganization of the republic, the depositary of the executive power having the right to dictate all the measures which he may think necessary to assure the fulfillment of the promises of this plan.

ART. 8. The depositary of executive power is vested with ample authority to make effective, in the most vigorous manner, the responsibility, civil and criminal, of Sebastian Lerdo de Tejada and his accomplices, applying to them the corresponding punishment.

ART. 9. Upon the triumph of this plan in any State whatsoever of the republic, the odious burden of internal customs duties shall by this fact be there abolished, the chief who may occupy that State being personally responsible for the fulfillment of this article.

ART. 10. The Eighth Congress having assembled, which shall have a constituent character, its first business shall be the constitutional reform which guarantees municipal independence, and the law of the political organization of the federal district and of the territory of Lower California. Liberty and regeneration, &c.

No. 422.

Mr. Foster to Mr. Fish.

No. 265.]

LEGATION OF THE UNITED STATES,
Mexico, March 23, 1875. (Received July 22.)

SIR: I have the honor to acknowledge the receipt of your dispatches numbered 190, 192, and 197, relating to the assault upon the Protestant church at Acapulco and the murder of the American citizen, Henry Morris. I shall endeavor to conform my action to the views expressed therein.

You will allow me respectfully to suggest that, referring to your dispatch No. 192, while Morris did not come to his death "by an act of a person in authority," his murder might have been prevented had not the authorities omitted the precautions necessary to protect the church against the assault, which I am informed was premeditated and had been repeatedly threatened. I have every reason to believe that no judicial punishment will ever follow this murder, and if the government is not pecuniarily responsible, it is probable the crime will remain entirely unavenged.

The consul at Acapulco informs me that nothing has been done toward the arrest or punishment of the criminals since my last dispatch on the subject.

I called upon Mr. Lafragua to-day, to inquire if the government had any further information upon the subject, and learned from him that it had not. In answer to my inquiry, he also stated that no federal troops had been sent to Acapulco, and no further measures had been taken by the government. Our conversation was quite lengthy, and on my part as decided as I felt justified in making it, but it developed no facts of importance beyond those stated in my previous dispatches. Mr. Lafragua stated to me that the reason why no troops had been sent to Acapulco was because they could not, in the present grave condition of the country, be spared from this city and the central portion of the republic. He again reiterated the determination of the government to do all that was possible to secure the punishment of the murderers of Morris.

I did not in the conversation hesitate to express my disappointment at and disapproval of the inaction and apparent indifference of the governor of Guerrero and the local authorities of Acapulco, and my well-grounded fear that no adequate punishment would be inflicted upon the criminals.

The consul at Acapulco has informed me of the arrival at Acapulco of the United States steamer Saranae.

I am, &c.,

JOHN W. FOSTER.

No. 423.

Mr. Foster to Mr. Fish.

No. 266.]

LEGATION OF THE UNITED STATES,
Mexico, March 24, 1875. (Received July 22.)

SIR: Referring to my dispatches numbered 252 and 255, on the present situation of the republic, I have to report no further armed outbreaks than those already noticed in the State of Michoacan. These opponents of

the government have assumed no greater proportions than that of guerilla bands, but they are still able to maintain a kind of military organization, in spite of the efforts of the federal troops to suppress them.

In addition to the forces already operating against them, it is announced that re-enforcements have been ordered from the garrison in this city. I inclose herewith a copy and translation of the revolutionary plan under which they claim to be operating, which will, in some measure, indicate the basis upon which the reactionary or church party might attempt to overthrow the existing government, if it could count upon success. But it is hardly probable, however, that the present movement will amount to anything more formidable than a mountainous guerrilla warfare, which with reasonable energy may be soon suppressed.

General Rocha, who is now "in quarters" (constructive arrest) at Celaya, in the interior, has written a letter, in which he denies that he ever had any conference or complicity with the conservative or church party, and pledges his unalterable devotion to the liberal party and principles.

The situation of the country may still be considered somewhat grave, in view of the religious antagonism on account of the passage of the law enforcing the reform measures and the departure of the Sisters of Charity, added to the general prostration of business, but the government claims its ability to preserve the peace and enforce obedience to the laws.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 266.]

PLAN OF THE REVOLUTIONISTS IN MICHOACAN.

[From "The Two Republics."—Translation from the "*Diano Oficial*," March 15, 1855.]

MEXICANS:

Whereas the constitution which now rules us has been imposed upon the people by force of arms and contrary to its express will; the men who hold authority over us have violated to the extent that already we are not able to say that we are constitutionally governed; defrauding the popular vote and mocking the national sovereignty, they have, for their own profit, become possessed of the offices, usurping the public power; they have wounded the religious sentiment of the nation; they have regulated and erected into a system the persecution of Catholicism, the religion of a majority of the Mexican people; they have attacked the national and civil liberty of the citizens, constituting a tyranny in no manner acceptable to those who have the pride of being called free men:

We, exercising the right which aided our fathers in defending the liberties of Mexico, have thought it our duty as men, as Christians, and as citizens, to proclaim the following plan:

ARTICLE 1. From this time there is an end to the observance of the federal constitution of the United Mexican States, sanctioned the 5th of February, 1857, its amendments and additions, and the law which regulates them, as also to the observance of all those codes which from that code shall have emanated.

ART. 2. The lawyer Sebastian Lerdo de Tejada ceases in the exercise of public power, and all the functionaries of the legislative, political, and judicial system who, contrary to the express will of the people, now form the *personnel* of the government of the Mexican Republic.

ART. 3. This plan, once being adopted by a majority of the Mexican nation, steps shall be taken to appoint a President *ad interim* of the republic. The election shall be made by a convention of representatives called by the general-in-chief of the forces who may assist this plan, in the place most convenient in the judgment of the said chief.

ART. 4. The President *ad interim* shall at once become invested with ample faculties in all the branches of the public administration, but under strict obligation to respect the Catholic religion, the individual guarantees, to attend to the security and independence of the nation, and to promote whatever may conduce to its prosperity and aggrandizement.

ART. 5. As soon as the President *ad interim* may enter upon the exercise of his functions, he shall appoint, without delay, a plenipotentiary near the Holy See, invested with the necessary powers to negotiate a *concordat*, which, tranquilizing the conscience, may regulate the effects of the acquisition of ecclesiastical property in virtue of the so-called laws of reform.

ART. 6. Two months after having entered upon the exercise of his functions, the President *ad interim* shall convene an extraordinary Congress, which shall attend exclusively to establishing the nation under the form of a popular representative republic, and to revising the acts of the present government, as also those of the provisional executive, of which art. 3 treats.

ART. 7. The constitution shall recognize as the state religion the Catholic apostolic Roman religion, granting to it all those rights and all those liberties inherent in its nature, and indispensable for the exercise of its high and elevated mission upon the earth, as also for the maintenance of the charity and harmony which ought always to reign between spiritual and temporal powers, without sacrificing their respective independence.

ART. 8. The principal chief who may sustain in each State this plan shall at once call a convention, composed of representatives of the municipalities, in order that they may elect a governor *ad interim*, and he shall exercise the necessary powers for organizing the public administration in his respective territory.

ART. 9. From this time there is an end to the observance of the so-called stamp-laws, the regulations of the national guard, and of the poll-tax and personal taxes which rule in some States. The general government and subordinate governments of the States, during the short period of their *interim*, shall reduce the corps of public employes to the number strictly necessary for efficient public service, and shall moderate the imposts and taxes, taking into account to this end the very urgent demands of the administration and the state of misery in which the extravagant government which now rules its destinies has left the people.

ART. 10. All those who shall oppose the present plan will be treated as enemies of the people and of the national independence; those chiefs of the army who adhere to it shall be recognized in the grade in which they appear in the military register on the date of their adhesion.

ART. 11. This plan shall be modified if the majority of the nation think it proper. God and order.

New Urecho, March 3, 1875.

ABRAHAM CASTAÑEDA.
ANTONIO REZA.

No. 424.

Mr. Cadwalader to Mr. Foster.

No. 206.]

DEPARTMENT OF STATE,
Washington, March 29, 1875.

SIR: I transmit a copy of a letter of the 27th instant and of the accompanying telegram, addressed to this Department by the First Assistant Postmaster-General, from which it appears that the post-office at Nueces, in Texas, has recently been robbed and burned and a mail-carrier to San Antonio robbed and taken prisoner. The perpetrators of these crimes are not mentioned, but, according to newspaper reports, they were Mexicans from the other side of the Rio Grande. You will lose no time in bringing the subject to the notice of the minister for foreign affairs of that republic. Although it is not believed that the acts referred to were committed or instigated by officers in the service of the Mexican government, they are obviously such as must create great resentment in the quarter where they occurred, and will probably lead to a retaliation which will result in augmenting the disquiet and sense of insecurity on the border. It is presumed that the Mexican government will omit nothing which may be in its power toward preventing such raids upon the territory of the United States.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

[Inclosure in No. 206.]

*Mr. Marshall to Mr. Fish.*POST-OFFICE DEPARTMENT, APPOINTMENT-OFFICE,
Washington, D. C., March 27, 1875.

SIR: The inclosed copy of telegram from postmaster of Corpus Christi, Tex., just received. Presumed to be the depredations of Mexican raiders referred to in papers of to-day.

Very respectfully, your obedient servant,

J. W. MARSHALL,
*First Assistant Postmaster-General.*HON. SECRETARY OF STATE,
Washington, D. C.

[Subinclosure to No. 206.]

Mr. Taylor to the Postmaster-General.

[Telegram.]

CORPUS CHRISTI, TEX.,
*March 27, 1875.*POSTMASTER-GENERAL,
Washington, D. C. :

Post-office at Nueces robbed and burned yesterday. San Antonio mail-carrier robbed and taken prisoner. Mail saved; no mail sent out to-day.

H. TAYLOR,
Postmaster, Corpus Christi

No. 425.

Mr. Cadwalader to Mr. Foster.

No. 207.]

DEPARTMENT OF STATE,
Washington, March, 31, 1875.

SIR: Referring to the instruction to you, No. 206, of the 29th instant, which was accompanied by a copy of a telegram to the Post-Office Department relative to the burning of the post-office at Nueces, in Texas, by marauders from Mexico, I now transmit a copy of a telegram from the governor of that State to the President craving protection against similar acts. This will, of course, be given to the extent of the power of the Government. It is expected, however, that the Mexican government will restrain such trespassers, so far as it may be able so to do, by the direct application of force, or deter a repetition of their outrages by the prosecution of the leaders of the raids according to law.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

[Inclosure in No. 207.]

Governor Coke to President Grant.

[Telegram.]

AUSTIN, TEX., *March 30, 1875.*

SIR: The depredations of organized bands of robbers from the Republic of Mexico have of late increased in frequency and atrocity to an extent which threatens the de-

population of the lower Rio Grande country. The alarm in the country between the Nueces and Rio Grande consequent upon these raids, in which our people are ruthlessly murdered and their property forcibly taken by these foreign desperadoes, is wide-spread, and unless relieved by some assurance of protection, must result in a general break-up of the settlements. On the 26th of this month a large party of these robbers penetrated the interior as far as within eighteen miles of Corpus Christi, robbing stores and ranches and murdering and capturing citizens, and capturing and destroying United States mails. I appeal to your excellency for protection for the people of that country against these invasions of outlaws from Mexico, since they have been of almost weekly occurrence for several months past, and are increasing in force and boldness.

The citizens of that country have been compelled, for the most part, to move to the towns for protection, and no security exists outside of these corporations for life or property, and the people in the towns even hold themselves in constant readiness for defense.

I trust that your excellency will deem it proper to give security to the people on the Rio Grande border in view of the assurance I now give you that an extreme necessity exists for it.

Very respectfully,

RICHARD COKE,
Governor of Texas.

His Excellency U. S. GRANT,
President of the United States.

No. 426.

Mr. Foster to Mr. Fish.

No. 271.]

LEGATION OF THE UNITED STATES,
Mexico, April 4, 1875. (Received May 6.)

SIR: The opening of the last session of the seventh Congress of the union took place on the 1st instant, the term of which session will expire by constitutional limitation on the 31st of May next.

I herewith transmit a copy and translation of the address which President Lerdo pronounced on that occasion.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 271.—Translation.]

President Lerdo's message at the opening of Congress, April 1, 1875.

CITIZEN DEPUTIES: Your reassembling on the day designated by the fundamental laws is a renewed proof of the orderly march of the public powers and of the consolidation of our institutions. It is likewise a well-grounded reason for hoping that the republic may not lose the benefits of peace advancing in the way of progress and of liberty.

Our relations with friendly governments continue happily and cordially cultivated. In order to strengthen them more with Guatemala and Italy, representatives of the republic have been sent especially charged with expressing to those governments the wishes which that of Mexico entertains for the prosperity of the people over whose destinies they preside.

The convention of the 20th November, 1874, which extended for one year the powers of the mixed commission established in Washington, being approved and ratified conformable to the constitutions of Mexico and of the United States of America, the ratifications were duly exchanged, continuing the commissioners in the discharge of their important duties.

The investigating commission in the States of Sonora and Chihuahua has terminated its duties. As soon as its reports are received they will be duly presented to Congress for its information.

Among the amendments to the constitution recently made, with all the requisites

which the same provides, the erection of the senate, which will be realized in September next, will become, in the composition of the executive power, the complement of our constitutional organization.

The executive has given exact fulfillment to the organic law of the constitutional additions and reforms. The remains of old prejudices in the religious sentiment of some persons, artfully and unreasonably excited, have given occasion or pretext for the formation of small armed bands in a limited section of the States of Michoacan and Jalisco, urged on by those who even pretend to believe that the Mexican people can be deprived of the victories, sealed by its blood, in those ideas and principles which have given it a place among the most liberal and civilized peoples. These small bands will soon be dispersed, which, being continually followed up, have not had, neither do they now have, any importance in compromising the peace of the nation.

The resolution which Congress dictated in the former period of its sessions, occasioned by the legal questions raised in Yucatan and Oaxaca, were executed in a pacific manner by the executive, the public order being maintained without any difficulty in those two states, which have continued in the most tranquil manner in their normal state.

On account of the vacancies which have occurred in the court of justice, and those which will very soon take place by the expiration of the legal term of some of the magistrates, it might be opportune that, in the general elections of June of this year, the election of new magistrates be held, without whom that tribunal might not be able to fulfill its high duties.

The advantage of decreeing the code of proceedings in criminal cases is a just occasion for recommending to the enlightened deliberation of Congress the proposition made by the executive upon the modifications which that code may require in the organization of the tribunals of the federal district.

There deserves also to be recommended to the consideration of Congress the project which the executive has presented to it of a new mining ordinance, so useful in a country which possesses this branch of industry as one of the principal sources of its wealth.

The project of the code of commerce having been completed, it will be submitted to Congress as soon as the observations of the chamber of commerce of this city are examined, which, at its suggestion, it has appeared very proper to hear in a matter of so great and general interest.

With the establishment of instruction in teaching and other branches in the national secondary school for girls, there has been given to it the character of a normal school, in order that there may be furnished a good corps of female teachers. The executive is also occupied in organizing a normal school of male teachers, the project for which will be duly presented to Congress for its examination and approval.

The project of a law for compulsory primary instruction, which the executive has presented to Congress, has the highest and most important interest for making education general and elevating the moral condition of society.

The commission sent to observe in Asia the transit of Venus across the disc of the sun reported that it had complete success in the observation. It is a cause of satisfaction that the Mexican commission may have been able to co-operate with the promoters of science, forming with these studies and data a work which they are already preparing to publish.

There only lacks an extension of about three leagues to complete the construction of the railroad from Vera Cruz to Jalapa, which certainly can be inaugurated in June next, conformable to the requirement in the concession.

For the important work of the railroad from Mexico to Leon, the investigations and surveys necessary for the entire distance from Mexico to Queretaro began without delay and have continued without interruption, the route which the road should follow being already located for a distance of 28 kilometers.

Near the end of the last period of sessions, the executive submitted to Congress a project for a railroad from Leon to the Rio Bravo, and another for a railroad from Guaymas to the Sonora and Arizona frontier.

The basis of a project is already settled, which will soon be presented to Congress, for a railroad from Matamoras to the Laguna de Jesus Maria, and for the necessary work in said lake for the purpose of improving its favorable conditions for forming therein an excellent port, which shall offer to vessels ample space and security.

The funds necessary for the light-houses of Anegada de Aferza, in Vera Cruz, and of Tampico, have been deposited. These improvements in the two harbors will be of great utility.

The labor for completing the canal from the lake of Tamiahua to Tampico is well advanced, as also that on the canal which will convey the waters of the Rio Armeria to the lagoon of Cuyetlan.

No effort is omitted for pushing forward the pending construction of several extensive telegraphic lines. Already all the material for the line from Tampico to Matamoras, via Ciudad Victoria, has been received, which, besides communicating with the

capital of Tamaulipas, will serve to maintain with security, by means of two lines, foreign telegraphic communication. Since peace was established, about the middle of the year 1872, there have been constructed two thousand six hundred kilometers of government telegraphic lines.

The commissions having in charge the arrangements for the national exposition and the preparation for the part which Mexico is to take in the Philadelphia Exposition continues in the satisfactory discharge of its interesting labors.

The payments of the civil and military lists, as also the ordinary expenses of the administration, have continued to be met with entire regularity.

This period of sessions being specially designated for the making of the estimates, Congress will be able, with enlightened prudence, to enact in the revenues and expenditures all that which may best comport with the necessities of the public service.

The law of the 10th of November last for continuing the recognition and liquidation of the claims of the public debt is being efficiently complied with. The proceedings which remained pending in the liquidating sections, that were discontinued, have been continued by the chief auditing office and the proper section of the department of finance with energy and assiduity; the executive hoping that, with due regard to the legitimate interests of the creditors, the dispatch of all these matters may be concluded within the designated time.

The stamp-law which was promulgated on the 31st of December, 1871, was not carried immediately into effect, on account of the office lacking the machinery and the materials necessary for the printing of the stamps. This obstacle being removed, it was determined on the 1st of December last that it should begin to take effect, and, exercising the authority which Congress confided in the executive, it made in said law important modifications favorable to the public, which is being executed in the federal district and in most of the States without the difficulties which other similar laws are ordinarily accustomed to produce.

Conformable to the decree of Congress, which permits vessels from foreign ports to arrive directly in our ports of coasting trade to load with cattle and wood, the executive issued a system of rules which would prevent contraband trade, without hindering the complete fulfillment of the effects of the law in favor of exportation.

As the increase of the mineral production in the district of Muligé, Lower California, and the annual fishing on its coasts, bring to that port an important mercantile business, it was determined, in order to encourage it, to establish there a port of the coastwise trade. In the same manner, on account of the new circumstances of the boundary-line between Upper and Lower California, the executive considered that, besides establishing the frontier port of Ziguana, it was best to transfer the frontier custom-house which was in Sonora to Port Isabel, situated at the mouth of the river Colorado, in the Gulf of Cortés. These measures were demanded by the quantities of goods which are being introduced at those points, and by the traffic growing with the increase of population.

The executive has been careful that the military colonies in the frontier States should continue provided with the armament, the equipment, and all other elements necessary for their good organization. In this manner they will be able to fulfill their important mission of protecting in their persons and property the inhabitants of those States, so worthy, on account of their patriotic sentiments, of the national consideration.

Receive, citizen deputies, my sincere congratulations on seeing you re-assembled again for the purpose of seeking, with your wisdom and patriotism, the well-being and prosperity of the republic.

No. 427.

Mr. Fish to Mr. Foster.

No. 212.]

DEPARTMENT OF STATE,
Washington, April 12, 1875.

SIR: I transmit a copy of a letter of the 8th instant and of the accompanying papers, addressed to this Department by the Secretary of the Interior. It will be observed that these relate to the embarrassments which Henry M. Atkinson has experienced in removing Lipan Indians from Mexico to their reservation in this country. From that gentleman's statement it appears that the local authorities, at least, are

averse to the measure, and are not indisposed actively to thwart it. This Department is reluctant to believe that the authorities at Mexico are insincere in their professions of good-will in the matter; but it is hoped that they may have control enough over the frontiersmen to cause their orders to be respected. It is difficult to see what substantial advantage Mexico can expect from keeping those Indians. So long as they stay there they are tempted to plunder and commit other acts of violence, not only upon Mexicans, but on our side, by the latter keeping up that irritation which it would obviously be wise to allay by all honorable means. On the contrary, if the savages are delivered to us to be disposed of pursuant to our policy, they are kept from harming others, and have a chance of materially benefiting their condition. You will make such representations on this subject to the Mexican government as may tend to facilitate the success of the measures which we desire.

I am, &c.,

HAMILTON FISH.

[Inclosure in No. 212.]

Mr. Delano to Mr. Fish.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., April 8, 1875.

SIR: I have the honor to transmit herewith a copy of a report, dated the 6th instant, from the Commissioner of Indian Affairs, and accompanying copies of communications dated March 22 and 27, respectively, from Henry M. Atkinson, special Indian commissioner for the removal of the Kickapoo and other Indians from Mexico to the United States. In view of the difficulties experienced by the special commissioner, in consequence of the persistent opposition of the Mexicans and the arbitrary action of the Mexican authorities, who, instead of co-operating to make his mission successful, have protested against the removal of the Indians, and attempted to thwart his efforts to carry out the instructions of this Department, the propriety of communicating to the Mexican government the information contained in the reports of the special commissioner, Atkinson, is respectfully submitted to the judgment of the honorable the Secretary of State.

Very respectfully, &c.,

C. DELANO,
Secretary.

The honorable the SECRETARY OF STATE.

[Subinclosure 1 in No. 212.]

Mr. Smith to Mr. Delano.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., April 6, 1875

SIR: I have the honor to submit herewith a copy of two letters from Henry M. Atkinson, esq., special commissioner for the removal of Mexican Kickapoos to the Indian Territory, dated Zaragoza, Mexico, March 22 and 27, 1875, reporting councils held with Kickapoos, Lipans, and Mescalleros, and his action relative to the movements of said bands. It is respectfully suggested that these communications be transmitted to the honorable Secretary of State, and his attention invited to the action of the Mexican authorities upon this subject.

Very respectfully, &c.,

EDWD. P. SMITH,
Commissioner.

Hon. SECRETARY OF THE INTERIOR.

[Subinclosure 2 in No. 212.]

Mr. Atkinson to Mr. Smith.

ZARAGOZA, MEXICO, March 22, 1875.

SIR: I have the honor to report that I have held several councils with the Kickapoos, Lipans, and Mescallero Indians, and have just concluded a treaty with between one and two hundred Kickapoos, who agree to start at once for their reservation in the Indian Territory. A portion of the Kickapoos have since 1873 been living near Mapimi, in the State of Durango, some 700 miles distant from here. The remainder of the tribe, about 200 in number, I found near Santa Rosa. On account of the hostile feeling on the part of the citizens of Santa Rosa to our mission, I decided to make this the place of rendezvous and negotiations. The greater portion of the Santa Rosa Indians are now here, but a few are awaiting the action of those living at Mapimi. The last-named Indians have sent me word that they were desirous of returning to the United States, but as they are so entirely destitute of means of transportation and supplies, they have requested me to furnish them there what they needed in moving. I have made a close calculation as to the cost of moving them from Durango to the Indian Territory, and find it is impossible to move them without exceeding considerably the limit of the appropriation of ninety dollars *per capita*, and unless they can reach here without material aid I will be compelled to abandon the idea of moving that portion of the Kickapoos. The remainder of the Indians at Santa Rosa will be governed by the action of those at Mapimi, and were it discretionary with me as to the amount of expenditure *per capita*, I would certainly succeed in getting all these Indians upon their proper reservation.

It is all I can possibly do to keep within the limit of those here. I have and am still laboring under the most trying difficulties. The persistent opposition of the Mexicans and the arbitrary course of their officials have been a serious source of trouble. The Mexican General Fueno, and Colonel Aquilla, commanding the troops on this frontier, gave me assurance of their co-operation in my mission, but I have been informed since then they have sent in protests to the authorities of the central government against the removal of the Indians, particularly the Kickapoos. Only within the past few days has the Mexican commissioner exhibited an apparent intention to get out of the commission all that he possibly could and then covertly defeat its success, so far as relates to the removal of the Kickapoos. They have interrupted my councils by appearing and insisting on my paying for houses which they claimed the Indians were wrongfully in possession of, but which in most cases the Indians assured me the charges were false. Yet the alcalde would summarily take the houses or demand that I should pay for them, which I absolutely declined to do, and told them to reclaim them by law. Yesterday the Mexican commissioner failed to be present at the council with the Kickapoos, and when he did come to-day he told them he was instructed by his government to say that they could go or remain here, as they might elect; and upon my request that he tell them that it was the desire of his government that they should go, he declined, claiming that it was exceeding his instructions. Furthermore, he informed me this morning that he did not desire the Kickapoos should go until the Lipans and Mescalleros went, knowing that it was the intention of those Kickapoos who were here to go to their reservation at once. I informed him that if he assumed that position at this late day, after I had collected and subsisted these Indians at a considerable expense, that I would suspend all further negotiations and report the facts to my Government, intending, however, to order the Indians to move across the Rio Grande as soon as possible, where I would prepare them for their trip to the Indian Territory. The commissioner, evidently fearing I would act as I had suggested to him, and knowing that it would necessarily reflect severely on the action of his government, consented to complete the negotiations with these Indians. The citizens here combined to put up prices on beef, flour, coffee, corn, and sugar to such outrageous prices that I had to send off to surrounding towns for such as the Indians required, and I have absolutely refused to make any more purchases here. The majority of the Mescalleros are at San Carlos, in the State of Chihuahua, and Commissioner Williams informs me that he is confident that most of them will remove to their reservation. Lipans are a small tribe, consisting of but about 20 warriors, and number in all about 70 persons. I expect to hold a council with them in a few days, but have very little confidence in accomplishing anything with them, as I have already held several councils with them. I have received nearly all the information required in your letter of December 19, 1874, in reference to the Seminoles, which I will forward as soon as I hear from those families who are scattered from the main portion of the tribe.

I have, &c.,

H. M. ATKINSON,

United States Special Indian Commissioner.

Hon. EDWARD P. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

[Subinclosure 3 in No. 212.]

*Mr. Atkinson to Mr. Smith.*ZARAGOZA, MEXICO, *March 27, 1875.*

SIR: As previously reported by me, under date of 23d instant, there are some one hundred and thirty of the Kickapoos who have decided to go to their reservation, and they will start in a few days.

In outfitting these I will have exhausted the full amount allowed per capita, and at that, have been compelled to cut down their outfit much below what they have asked for, and which they really require for their trip. The amount of course includes all supplies furnished during their collection, and subsistence since then.

In my report of 23d instant, I stated that there were about one hundred of this tribe, at Mapimi in the State of Durango, who have sent me word that they desired to go to the Indian Territory, but owing to their destitute condition they are unable to reach here without material aid, which I cannot furnish on account of the limitation to \$90 per capita, as it would cost about \$60 per capita to get them here, and unless they can reach here with very little assistance, I cannot move them. There are about seventy of the tribe at Santa Rosa, who will, as I am informed, be governed by the action of those at Mapimi, in relation to removing to the Indian Territory, as they belong to the same band. Cheno, the old chief of the band referred to, and who was the principal opponent of removal in 1873, is dead, and his successor is, according to their statement, desirous of leaving Mexico, believing that he can thereby better the condition of his people. If, after those of the tribe with whom I have concluded a treaty have left Mexico, and having exhausted the whole \$90 per capita for "those moved," I then continued negotiations with the other band, and after expending \$500, or \$1,000 in their collection for council, they failed to go, for some cause, either through Mexican influence or that the limitation precludes the possibility of my complying with their demands, could I not, under a reasonable construction of the law, be protected in the necessary disbursements for such purposes? An early reply to this interrogatory is respectfully solicited.

Some days since a lot of flour was purchased here, and delivered to the Indians, many of whom after eating some of it were taken very sick and several of them came very near dying.

The flour was undoubtedly poisoned with the expectation that the Indians would attribute the act to me and thereby defeat their removal. Fortunately the Indians knew that the purchase was made through the Mexican commissioner, and of the *chief alcalde*, who stored it in one of his buildings, and delivered as they required it, consequently the effect was the opposite of what they expected. The opposition of the people is more decided and determined than ever before to defeat my success.

Since my last report, the Mexican commissioner, I. Del Moral, threatened that if I did not pay for some horses, that certain parties claimed were wrongfully in possession of the Indians, and had been for two to four years, he would use force to compel the Indians to surrender them *or other horses in lieu of same*. The chief was present and informed the commissioner that the horses claimed were not in his band, that he had compelled his men to surrender all horses not owned by them, and that an exhibition of force would frighten the Indians and defeat their removal as they were rather wild. This explanation had no other effect than to cause a reiteration of the threat, whereupon the chief, fearing the result of such action, requested me to settle the matter in some way and not allow troops to go to the Indian camp. I therefore paid for the horses under *protest*.

Very respectfully, &c.,

HENRY M. ATKINSON,
Special Indian Commissioner.

HON. EDWARD P. SMITH,
Commissioner of Indian Affairs, Washington, D. C.

No. 428.

Mr. Fish to Mr. Foster.

No. 213.]

DEPARTMENT OF STATE,
Washington, April 13, 1875.

SIR: I transmit a copy of a letter of the 7th instant and its inclosure addressed to this Department by the Secretary of War upon the sub-

ject of depredations in Texas by Indians from Mexico. The facts stated in the communication tend to confirm the impressions of the Department which have already been conveyed to you as to the impolicy on the part of the Mexican government to keep within their territory Indians properly belonging to the United States.

I am, &c.,

HAMILTON FISH.

[Inclosure in No. 213.]

Mr. Belknap to Mr. Fish.

WAR DEPARTMENT,
Washington City, April 7, 1875. (Received April 9.)

SIR: I have the honor to transmit, for your information, copy of report of the commanding officer of Fort Duncan, Texas, of depredations supposed to have been committed by Mexican Indians, including the report of a scout, made by Lieutenant Markley, Twenty-fourth Infantry, and map of the country traveled over.

Very respectfully &c.,

W. W. BELKNAP.

[Subinclosure 1 in No. 213.]

Lieut. Col. Shafter to Assistant Adjutant-General.

HEADQUARTERS FORT DUNCAN, TEXAS,
February 22, 1875.

SIR: I very respectfully report, for the information of the brigadier-general commanding the department, that a party of Indians, five to seven in number, have been recently raiding within a few miles of this post.

On the 14th instant, they attacked a couple of herders near the stone ranch between this post and Fort Clark, capturing several horses. On the 16th inst., near the Penedencia road, and about fifteen miles east of here, they attacked a Mr Vivien, citizen, wounding him in the hand; after following him some distance, he succeeded in frightening them away by shouting for help. About a mile from where the Indians left Vivien, they came across a Mexican with an ox-cart, and attacked him. Finding that he was unarmed, they went up to the cart, pulled him out, and made him take off his clothes, kneel down, and then shot him through the body with an arrow. It is reported by Mexicans that on the 18th, near the mouth of the San Pedro, about fifty miles below this post, just as the Indians were about to cross into Mexico, they were attacked by two Mexicans, their horses taken from them, and one little boy they had captured from a ranch near by retaken. In the fight, one of the Mexicans, a resident of Presidio Rio Grande, was killed. The Mexican who was shot through the body with an arrow is now in post-hospital. He states that the Indians spoke Mexican fluently, and that he knows them to be Mexican Indians. From his description and that given by Mr. Vivien, and the appearance of the arrows, those best able to judge of such matters pronounce them to be Lipans or Mescaleros. The Mexican troops recently on this frontier have all been withdrawn to Monclora. I have not, therefore, reported the raid to the authorities on the other side. It is reported that a large camp of Lipans and Mescaleros is now some distance above Ramolino, and it is well known that Mexicans from the other side are constantly trading with them.

The first alcalde of Piedras Negras recently came from their camp with a number of horses which he had gotten from them. Lieutenant Markley, Twenty-fourth Infantry, with two Seminoles, were sent out in pursuit of the Indians, but too late to accomplish anything. His report accompanies this letter.

I am, sir, very respectfully, your obedient servant,

W. R. SHAFTER,
Lieut. Col. Twenty-fourth Infantry, Commanding.

[Subinclosure 2 in No. 213.]

Lieutenant Markley to the Post-Adjutant.

FORT DUNCAN, TEXAS, February 22, 1875.

POST-ADJUTANT :

SIR: I have the honor to make the following report of a scout: On the forenoon of Thursday, February 18, 1875, I was ordered by the lieutenant-colonel commanding to take my detachment of Seminole negro scouts and five days' rations, and proceed to the Pendencia, where Indians had appeared, and then use my judgment. I arrived with ten men at Ferry's ranch, on the Pendencia, that night about 11 o'clock, and next morning consulted with Mr. Ferry, an intelligent man, as to what was best to be done. The result was that I thought they were Mexicans, or Mexicans and Indians, from the neighboring districts of Mexico; so I determined to follow the trail, though sixty hours old, so as to be able to report upon it. The Indians had on Thursday evening, 16th, attacked a Mexican, driving a cart, on the road that I came, about fifteen miles back. I returned to that spot, took up the trail of seven horses leading about south. Owing to the soft ground and the frequent scattering of the Indians I was two days getting to the Rio Grande, about forty-five miles, near Pegauche. From the articles dropped by them I then believed them to be Indians, not Mexicans, and four men from the ranch at that place, known to my men, informed me that they had a fight with these same Indians, drove them off, and they had gone down the river about thirty-five miles to Refugio, when they had a fight with the people there, killing one Mexican, and then had gone off eastward into Texas. The next morning the trail would be four days old. My judgment was that I might as well return to the post, which I did on Sunday, February 21, (thirty miles.)

The Indians abandoned and dropped on their trail a pony and new Mexican saddle-tree, (brought in by me,) and pieces of United States blue kersey clothing, new stockings, and new boots, with legs cut off, and a filthy shirt, sewed with sinews, (mentioned as possible clues to their recognition.)

I inclose a map of the country traveled over by me.

Very respectfully, &c.,

A. C. MARKLEY,

*First Lieutenant Twenty-fourth Infantry,
Commanding Detachment Seminole Negro Scouts.*

No. 429.

Mr. Fish to Mr. Foster.

No. 214.]

DEPARTMENT OF STATE,

Washington, April 14, 1875.

SIR: With reference to a previous instruction upon the subject, I transmit for your information a copy of a letter of the 10th instant, and of its accompaniment, addressed to this Department by the Secretary of War, relative to the recent burning of the post-office at Nueces, Texas, by marauders, supposed to have come from Mexico.

I am, &c.,

HAMILTON FISH.

[Inclosure in No. 214.]

Mr. Belknap to Mr. Fish.

WAR DEPARTMENT,

Washington City, April 10, 1875.

SIR: I have the honor to transmit for your information copy of a telegram of J. W. Ward, special deputy collector of customs at Corpus Christi, Texas, dated 31st ultimo to the Secretary of the Treasury, reporting robbery and burning of post-office at Nueces by marauders from Mexico.

Very respectfully, your obedient servant,

WM. W. BELKNAP,
Secretary of War.

The honorable the SECRETARY OF STATE.

FOREIGN RELATIONS.

[Subinclosure in No. 214.]

[Telegram.]

*Mr. Ward to Mr. Bristow.*UNITED STATES CUSTOM-HOUSE,
Corpus Christi, Texas, March 31, 1875.

United States post-office, Nueces town, twelve miles from here, robbed and burned, three men shot therein and in neighborhood, on 26th, by party of marauders from Mexico. Citizens and families at ranches and on public roads within four miles of and beyond there captured, robbed, and cruelly abused by same party; whole country under arms. It is felt that citizens and their helpless families are at mercy of outlaws; large armed parties reported to have crossed from Mexico at various points on Rio Grande in this and Braziers (Brazos) Santiago districts. Collector Ploto left here, 25th, on inspecting and collecting trip to Rio Grande.

J. W. WARD,
*Special Deputy in Charge.*B. H. BRISTOW,
Secretary of the Treasury, Washington, D. C.

No. 430.

Mr. Fish to Mr. Foster.

No. 219.]

DEPARTMENT OF STATE,
Washington, April 28, 1875.

SIR: I transmit a copy of two letters of the 19th instant, and of the documents by which they were accompanied, addressed to this Department by the chief clerk of the War Department. They relate to recent events on the frontier of Texas. These papers show that parties of raiders, supposed to have come from the Mexican side of the Rio Grande, have recently been unusually active and numerous, and have committed murders and robberies on American soil in that quarter. Although the information afforded may not be sufficiently definite to require a special complaint to the Mexican foreign office, it shows a condition of things on their side likely to lead to continued acts of violence on ours, which must increase the difficulty of preserving the public peace generally in that quarter. As such, it is hoped that the serious attention of the Mexican government will be given to the subject, in order that all unauthorized hostilities may be discouraged.

I am, &c.,

HAMILTON FISH.

[Inclosure 1 in No. 219.]

*Mr. Crosby to Mr. Fish.*WAR DEPARTMENT,
Washington City, April 19, 1875.

SIR: I have the honor, in the absence of the Secretary of War, to transmit, for your information, a copy of a communication from Col. Edward Hatch, dated Ringgold Barracks, Texas, March 9, 1875, reporting that the Brownsville Ranchero has published articles relative to the affair at the Solises, reflecting on the troops of that garrison, inclosing letters refuting the statements, and a letter from the nominal editor of that paper explaining why the true statements were not inserted.

Very respectfully, your obedient servant,

H. F. CROSBY,
Chief Clerk.

To the honorable THE SECRETARY OF STATE.

[Inclosure 1 in 1 in No. 219.]

*Colonel Hatch to General Augur.*RINGGOLD BARRACKS, TEXAS,
March 9, 1875.

GENERAL: As the Brownsville Ranchero has published articles reflecting discredit on the troops of this garrison relating to the affair at Solises ranch, I have taken the liberty to inclose articles written by the coroner's jury and sheriff, subsequent to the publication of those reports, also letter from the nominal editor explaining why the true statements were not inserted.

The object of the statements made in the Ranchero is to induce public opinion to look favorably upon the murderers of the soldiers, and undoubtedly published at the instance of their advocate, who has succeeded so far in having the seven men found guilty bailed out upon little or worthless security.

I should be very sorry to cause you any annoyance through the papers, and shall feel exceedingly provoked with myself if I have committed any action in the matter distasteful to yourself.

There are a great many rumors afloat of crossing the river in force; this I do not credit; we are amply able to manage any force that might do so. It is rather humiliating to listen to these constant threats. I believe it would be well for the Government to give you a few more troops, and settle this affair here at once.

I will, to-morrow, send you an official report of affairs here in time for the Wednesday mail.

Since the murder of Fulton, the Americans are panic stricken. We shall, however, in a few days, I hope, give them satisfactory proof that there is no danger. Should any parties cross of considerable strength, I shall consider it fortunate; the troops can then act safely.

Very truly, your obedient servant,

EDWARD HATCH,
*Colonel United States Army.*General C. C. AUGUR,
San Antonio, Texas.

[Inclosure 2 in 1 in No. 219.]

*Members of coroner's jury to the editor of the Brownsville Ranchero.*RINGGOLD BARRACKS, TEXAS,
February 11, 1875.EDITOR OF THE RANCHERO,
Brownsville, Texas:

Having seen in your paper headed accounts of the fight in Starr County, and as they are manifestly incorrect and written with the design to reflect upon the military and post-commander of this place, we, the undersigned, members of a coroner's jury, who were convened at ranch Solises, and held an inquest upon the bodies of the two murdered soldiers and one Mexican at the time, would respectfully request to make the following statement through your columns for the information of the public.

We were summoned by Deputy Sheriff Theodore A. Davis, on the morning of the 27th ultimo, to attend a jury of inquest at the Solises ranch, and proceeded at once to that place; on our arrival we found General Hatch with cavalry encamped there, who had secured men supposed to be implicated, who were immediately turned over to the sheriff; and others had been requested to remain and await the sheriff's arrival to give testimony.

We examined all the witnesses on oath carefully, and among them the clerk reported in your paper as being shot, who stated that the soldiers had never shot him or given him or any one trouble, and were orderly during their stay at the ranch; no soldiers came near the store, and that the first firing he heard on the evening of the 26th, was from the ranch into the camp of the soldiers, and that the soldiers did not return the fire, except the sentinel; the soldiers were asleep on the ground; that the soldiers did not return the fire, but that the corporal commanding the squad went to the ranch, and asked why they were being fired into. The next firing he heard was when the soldiers were fired into above the ranch. All witnesses state there had been no trouble with the soldiers, and that the soldiers did not in any manner molest the ranch.

We find seven men of those detained, and several others who were at the time, and are at present, in Mexico, as parties implicated in the foul murder of the two soldiers

and one citizen, guilty, as verdict on file at the court-house in Rio Grande City will show this.

We would like to state in addition to the above, that, in our opinion, if the troops had not been under a thorough state of discipline and completely under the control of their officers, when the verdict of the jury was known, and that the murderers were in the hands of the posse of soldiers furnished the sheriff, and at the same time before them the mutilated bodies of the soldiers, who had been first killed in ambush, then horribly disfigured, robbed of everything, nothing could have saved the murderers from instant death.

E. J. STONER, *Foreman of Jury.*
 H. G. TACHAN, *Member.*
 LOUIS HENRY.
 JOSEPH DUNN.
 WILLIAM RICHARDS.
 ALBERT DEAN.

[Inclosure 3 in 1 in No. 219.]

Sheriff Davis to the editor of the Brownsville Ranchero.

EDITOR BROWNSVILLE RANCHERO:

That deeming it my duty to arrest twenty-two men at the Solises ranch for murder and as witnesses, General Edward Hatch, commanding at Ringgold Barracks, at my request, was kind enough to furnish me with guard and transportation for twenty-two men from Solises ranch to Rio Grande City, and furthermore, at my request, to guard them for me during the night of the 23th of January. This request was made by me in my capacity as deputy sheriff, as the jail in Rio Grande City was not sufficiently large or secure to hold them. I accompanied the prisoners in person on the way to Ringgold Barracks. On the next morning, when the prisoners were called for, they were at once turned over and not detained by the military, as your paper states. The prisoners were arrested by me; the posse was furnished by the military, at my request.

THEODORE A. DAVIS,
Deputy Sheriff.

[Inclosure 4 in 1 in No. 219.]

Mr. Mausur to Mr. Tachan.

BROWNSVILLE, February 17.

MR. J. H. TACHAN:

Your letter was handed to Colonel J. L. Haynes, who has written most of the editorial for my paper during the last two years. He has always been on the side of the Mexicans. I never have, and cannot understand his reasoning; and the reason I publish his articles are, first, I hold a federal appointment under him; and, second, I have not paid for my paper in full. I have always been on the side of the Army, even while not one officer in ten nor one soldier in fifty, stationed here give me any material support.

Trusting that you and the gents who composed the jury will understand me, I remain, respectfully, &c.,

J. S. MAUSUR.

[Inclosure 2 in No. 219.]

Mr. Crosby to Mr. Fish.

WAR DEPARTMENT,
 Washington City, April 19, 1875.

SIR: I have the honor to transmit for your information, copy of reports of commanding officer, Ringgold Barracks, Texas, and Brigadier-General C. C. Augur, relative to raids by Mexicans into Texas.

Very respectfully, your obedient servant,

H. F. CROSBY, *Chief Clerk,*
For the Secretary of War, in his absence.

To the honorable THE SECRETARY OF STATE.

[Inclosure 1 in 2 in No. 219.]

*Colonel Hatch to the Assistant Adjutant-General, Department of Texas.*HEADQUARTERS RINGGOLD BARRACKS, TEXAS,
March 10, 1875.

SIR: I have the honor to call attention to the inclosed reports. That of Mr. Avery, United States commercial agent at Camargo, Mexico, states what I already know; that there is a body of men numbering from seventy-five to one hundred, now on this side of the river, at a point named Los Diez. On examining the point named, these men are found dispersed among the ranches of the Solesis, Grullia, and Los Diez, their horses picketed or ranging near them; they are represented as citizens of Texas, and should the military make any arrests they will be so considered; until we can catch them in a body armed, we are utterly powerless to make arrests. I inclose a tracing of the vicinity; the region is well known to me; it is a labyrinth of lakes and thickets; the ford at Los Diez being one of the most shallow and best on the river.

The party mentioned at the bend of the Tortuga is on debatable ground, between a large lagoon on the Texas side and the main channel of the Rio Grande. It is presumed that the precedent of the territory at the Bolea bend, decided by the United States court as Mexican territory, confers the same title to this land to Mexico; the territory was not alienated by the change of river-channel subsequent to the treaty of Hidalgo Guadalupe.

Garcia, the chief mentioned, is, or was, a resident of Rio Grande city, an old adherent of Cortinas. Although I have heard many rumors of a raid in force, I am under the impression that Cortinas contemplates some movement, probably revolutionary, in Tamaulipas. Many of the river ranches on the American side are in sympathy with him, and will assist him with men, horses, and, what is quite as necessary, supply his commissariat with stolen cattle. Small parties at various points cross on foot; whether they have crossed to avoid impressment or for the purpose of stealing, I am unable to learn.

Mr. Fulton, reported murdered, was a justice of the peace and hide inspector, and as he has endeavored to enforce the law delegated to him, doubtless accounts for his death.

During the month of February I visited all outposts of the garrison, and I have no reason to change my views as to the manner of assuring security to life and property in the territory adjacent to the Rio Grande; to do so will require an armed force. Whether furnished by the State or Army, this armed force should have authority to enforce such regulations as may be deemed necessary outside of the towns, to preserve good order, and protect the country from marauding bands. Certain points on the river should be designated as crossings, and men and stock should be allowed passage only in daylight, and any attempt to pass otherwise should be held as a violation of rules, and evidence of evil intent.

I would respectfully invite your attention to the fact mentioned in Mr. Avery's letter, as evidence that the State of Tamaulipas considers the residents of the Solesis and Grullia ranches citizens of Mexico. Trivial as the circumstances may seem at present, grave events might grow out of the case. The absurd ignorance of the authorities of the State of Tamaulipas—extending its laws beyond any first-class power in existence; stretching its municipal authority beyond a foreign boundary; summoning by its local magistrates its citizens, who have acquired the right of domicile in foreign country, to appear before its tribunals, not for crimes committed by the citizens in violation of its own laws, but to obtain evidence to frame an indictment against the armed authority of a neighboring power—show that they believe they still have jurisdiction on this side. The people of the ranches mentioned are Mexicans, and few have declared their intention of becoming American citizens. In this precinct there are nearly a thousand families with eleven registered voters, five of whom are entitled to vote.

I think the necessary arrangements are already made to drive out these marauders, and probably within a week they will all be out of the country. If this band in and about the Solesis, Diez, and Grullia ranches are not over the river by to-morrow they will be driven out.

Very respectfully, your obedient servant,

EDWARD HATCH,
Colonel 9th Cavalry, Commanding.

[Inclosure 2 in 2 in No. 219.]

Captain Moore to the post adjutant, Ringgold Barracks.

EDINBURGH, TEXAS, March 1, 1875.

To the POST ADJUTANT,
Ringgold Barracks:

SIR: On the evening of the 27th instant, about 7 p. m., the sheriff of this county applied to me for a detachment of men to proceed to the ranch of Fulton, about 9 miles

below here, a Mexican having just come in and reported that he had seen men firing and running in and around his house and store. I immediately saddled up and with 14 men accompanied the sheriff. Arriving at Fulton about 8.45, we found a group of frightened Mexicans, who reported that six men (Mexicans,) had attacked the store about dark, killing Mr. Fulton and his assistant, a Mexican. The body of the clerk was lying just at the door, shot through the head, and Fulton's body about 200 yards distant, also shot through the head; he had evidently run from the store when he had had a struggle with the robbers, from one of which he had seized a pistol and wounded one. They robbed his person, and, with their wounded comrade, crossed the river near the ranch. It is not known how much money was taken. A small sum was found in the drawers of the counter, which was probably forgotten in their haste.

It is the general impression that one or more of Fulton's employés were accessories, as there were 7 or 8 men in and around the premises at the time of the attack who tell many contradictory stories, although all of them deny all knowledge of the perpetrators. I placed a detachment of one non-commissioned officer and six privates at the disposition of the sheriff to assist in taking care of the murdered man's goods. I also offered him as many men as he might require to assist him in making arrests.

Very respectfully, your obedient servant,

FRANCIS MOORE,
Captain 9th Cavalry, Commanding.

[Inclosure 3 in 2 in No. 219.]

Captain Beyer to the post adjutant, Ringgold Barracks.

CAMP COMPANY C, 9TH CAVALRY,
Roma, Texas, March 1, 1875.

To the POST ADJUTANT,
Ringgold Barracks, Texas:

SIR: I have the honor to report that during the month of February, 1875, Company C, Ninth Cavalry, performed the usual scouting and patrol duties assigned to it.

The following scouts were made during the month:

Captain Beyer, Ninth Cavalry, with two (2) sergeants, two (2) corporals, one (1) trumpeter, one (1) blacksmith, and seventeen (17) privates, left this camp on the morning of February 10, 1875, on a scout through the following counties or portions of same, Starr, Zapata, Duval, and Webb, returning to Roma, Texas, February 21, 1875; distance marched about three hundred miles.

Patrols were frequently sent out during the month, who patrolled the Rio Grande between here and Carizo.

No report of any cattle-stealing or of depredations committed have reached me.

I am, sir, very respectfully, your obedient servant,

C. D. BEYER,
Captain 9th Cavalry, Commanding Company C.

[Inclosure 4 in 2 in No. 219.]

Captain Beyer to the post adjutant, Ringgold Barracks.

CAMP COMPANY C, 9TH CAVALRY,
Roma, Texas, March 4, 1875.

To the POST ADJUTANT,
Ringgold Barracks, Texas:

SIR: Referring to your letter dated headquarters Ringgold Barracks, Texas, March 1, 1875, upon the subject, I have the honor to report that I have good ground to believe that there are parties living at the following-named ranches fronting on the river, viz, Alamo, Casa Blanco, Loz Arrieroz, Saleneno, Chapeno, Lopinio, Loelee, Clarenio, and Tapozan, who are engaged in cattle-stealing as well as hide-peeling, and that they are aided and abetted by the inhabitants of the above-named ranches. I am further convinced that all the inhabitants of ranches along the river are cognizant of the movements of cattle-thieves, and of the time and places when and where stolen stock is crossed into Mexico.

I have no doubt but that there are some rancheros who would inform the proper authorities relative to the movements of cattle-thieves, and are only deterred from

doing so on account of the danger they would run of having their ranches destroyed, and perhaps being murdered by the thieves; but, as a general thing, the rancheros care very little about cattle being stolen as long as the thieves exempt their stock, and only steal from Americans living in the neighborhood of the Nueces River, and other streams in the interior, as can be easily proved by the large number of cattle running at large between the river and the sand prairies bearing Mexican brands, showing clearly that the thieves do not steal cattle from their Mexican friends, living near the river, which they could easily do, but rather go into the interior and steal from Americans, well knowing that if they stole any stock belonging to Mexicans they could not easily cross the river with their stolen stock, because the Mexicans would guard the various crossings and fords at or near the various ranches on the river.

I would further state that I have never received any information from the resident or civil authorities that would lead to the arrest or capture of cattle-thieves, but on the contrary residents have given the cattle-thieves information relative to the movements of my scouting parties, thereby frustrating all efforts on our part to put an end to cattle-stealing.

All information I have ever received in regard to movements of cattle-thieves has given me by personal friends of mine, who reside in Mier and Guerro, Mexico.

Very respectfully, your obedient servant,

C. D. BEYER,
Captain 9th United States Cavalry.

[Inclosure 5 in 2 in No. 219.]

Captain Moore to the post-adjutant Ringgold barracks.

EDINBURGH, TEXAS, March 4, 1875.

SIR: I inclose a communication from the justice of the peace of precinct No. 4, of this county, inclosing another from the justice of the peace of precinct No. 5, on the subject of a raid from Mexico. As the Los Cuevas country is beyond my boundary, I respectfully refer the papers to post-headquarters, knowing nothing more of the matter than what the communication contains.

Since the recent murder of the justice of the peace of precinct No. 2, (Fulton,) magistrates and others prominent in this county are more or less panic-stricken.

Very respectfully, your obedient servant,

FRANCIS MOORE,
Captain 9th Cavalry, Commanding.

To the POST-ADJUTANT,
Ringgold Barracks, Texas.

[Inclosure 6 in 2 in No. 219.]

Mr. Bourboi to Captain Moore.

SIR: I received a communication from justice of the peace, precinct No. 5, which I inclose so that you may judge what it contains and act on it; it is a notice that a squad of men, don't say how many, are ready at the Cuevas, supposed to cross on this side.

I remain yours,

J. B. BOURBOI,
Justice of the Peace, Precinct No. 4.

Captain MOORE,
Post Commander at Edinburgh.

[Inclosure 7 in 2 in No. 219.—Translation.]

Justice Minguin to Justice Bourboi.

PRECINCT NO. 5, HIDALGO COUNTY, TEXAS.

To-day, about 8 o'clock, I received news that in the rancho Saint Miguel, Los Cuevas, an armed force are there with the purpose of crossing on this side of the Bravo. It is not known for what purpose or what object, nor the number of men, because I have not received the news by writing but verbally, but it is certain and positive.

TEODOCIA MINGUIN,
To Justice of the Peace, Precinct No. 4.

FOREIGN RELATIONS.

[Incloure 8 in 2 in No. 219.]

*Mr. Avery to General Hatch.*COMMERCIAL AGENCY OF THE UNITED STATES,
Camargo, Mexico, March 6, 1875.

SIR: I respectfully submit to you the following information that I have obtained regarding an expedition that is now on foot in this vicinity. My information is derived from persons whom I consider reliable, residents of the ranches below this place, and who are in position to be well posted in the matter, and in imparting the following facts they could have no motive to deceive me.

From what I am told it appears that, some three weeks ago, Cortina sent confidential letters to his retainers and friends, on whom he can rely, requesting them to be prepared with arms and horses for some expedition, of what nature they would be further informed. I am now told that, acting under these instructions from Cortina, many of the rancheros of Los Cuevas and vicinity have already organized, or are preparing to organize on the Texas side of the river, in considerable force. I am told that the appointed place of rendezvous is in a potrero in a bend of the river near Diaz ranch, between the Salis ranch and the river.

What may be the ulterior motive for this gathering, I am not able to state; it may be for the purpose of joining in some revolutionary movement in the State of Tamaulipas, as partisans of Cortina, or it may be for the purpose of making a formidable raid on some point in Texas; but the fact that they have their place of meeting on the left bank of the Rio Grande I consider of sufficient importance to call your attention to the matter.

A resident of La Grulla ranch called on me to-day to translate for him a communication from your headquarters asking a copy of the declaration he had made respecting an outrage committed at his ranch by a party of soldiers. He told me that he and others had been notified to appear at the juzgado to-morrow to give their information respecting the affray between the citizens and soldiers at Solis ranche in January last. This information is called for by the State government. I will endeavor to obtain a copy of the declarations for you.

I am, sir, very respectfully, your obedient servant,

LUCIUS AVERY,
United States Commercial Agent.

General EDWARD HATCH,
Commanding Ringgold Barracks.

[Inclosure 9 in 2 in No. 219.]

*Mr. Morel to General Hatch.*BUENA VISTA, TEXAS, *March 7, 1875, 8 p. m.*

GENERAL: I am informed by one of Mr. Munguia's sons that his father, while hunting a manada of mares in the bend at the Tortuga, was arrested by a band of armed Mexicans from the other side of the river. He was taken before their commander, when he was released upon promise that he would not say anything to anybody. This old man is an old friend of the chief. The chief of the band is well known in Rio Grande City. His name is José Maria Garza. Chato, the informer, says that they are good many. I understand that he intends coming up the river, as he has another party of men from the tepehuaje that will cross the river as soon as he is near the La Grulla or Salado. I have requested the justice of the peace to find a man so I might send Captain Moore a letter informing him of the news. The Tortuga is about twelve miles from Edinburgh. I have tried several of my amigos to get upon their horses and go with me, so we might give Mr. Garza and his party an American call, but it is no go, for they say they haven't the proper weapons to call. Consequently, I think they should be punished as invaders. I will remain at home all day to-morrow, and if you send any troops I will be very glad to take them to the spot.

Very respectfully, your obedient servant,

VON MOREL.

P. S. I just been to see the justice and he refused me a man, on the ground that he had no instructions. I have tried to get some one to go to Edinburgh but they all refuse. Our only hope is from Ringgold Barracks.

Yours, &c.,

General E. HATCH.

VON. M.

[Inclosure 10 in 2 in No. 219.]

Captain Moore to post adjutant Ringgold Barracks.

EDINBURGH, TEXAS, *March 8, 1875.*

SIR: In obedience to your communication of the 1st instant, I have the honor to report that during my present tour of duty here, (since January 15, 1875,) I have no information or knowledge of cattle being crossed into Mexico, in the limits of this sub-post; nor have I ever at any time received information from civil officers or others that could lead to the detection of thieves crossing or stealing cattle.

From information derived during my service on the river, I believe that cattle are usually stolen and crossed by residents of Mexico, aided and abetted by friends and allies living along the river on this side. It is hard to believe that cattle could be crossed at many points where it is alleged that they have been crossed without the knowledge, consent, and aid of at least some of the rancheros living there. Even men of good standing do not consider it any business of theirs to give information so long as the cattle being stolen are not their own or friends'; giving as a reason that the thieves would revenge themselves on the informants.

I fully believe that few or no cattle could be stolen or crossed if the rancheros living along the river were vigorously opposed to it, but so long as they give active and quiescent aid to the thieves it will take the whole Army of the United States to effectually stop it.

Very respectfully, your obedient servant,

FRANCIS MOORE,

Capt. Ninth United States Cavalry, Commanding.

To the POST ADJUTANT, *Ringgold Barracks, Texas.*

[Inclosure 11 in 2 in No. 219.]

Mr. Glarvecke to Mr. Mix.

[Postal card.]

To JOHN E. MIX, *Rio Grande City, Texas:*

SIR: Tell some officer to tell General Hatch to watch Los Cuevas and immediate crossings, as upward of 150 thieves have gone up to rendezvous at that place, to make a big raid. They intended to dash on Brownsville three nights, but it was frustrated by our vigilance.

More anon.

Yours fraternally,

A. GLARVECKE.

MARCH 8, 1875. Received 3 p. m. March 10.

[Inclosure 12 in 2 in No. 219.]

Captain Moore to General ———.

EDINBURGH, *March 9, 1875.*

GENERAL: * * * * *

All quiet here. Sam. Russel, from Brazos, has been here for some days settling affairs of Fulton.

I kept a guard at the place until the goods and property were removed. Everybody left the place as soon as the soldiers were withdrawn.

Rhodes, justice of the peace, precinct 5, Hidalgo County, reports a large body of men opposite him, (about nine miles above Santa Maria.) He applied to Captain Purington and myself for troops some days ago. Of course I could do nothing, as it would take a regiment for all who wanted troops. The trouble is, that the scoundrels live in our midst, and when they see a chance to make a haul, send over the river for a few friends, who come over to rob and kill, but I have no faith in any large parties.

* * * * *

F. MOORE,

Captain, Ninth Cavalry.

FOREIGN RELATIONS.

[Inclosure 13 in 2 in No. 219.]

*Indorsement of Assistant Adjutant-General Taylor.*HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, Texas, March 23, 1875.

A true copy respectfully forwarded to the assistant adjutant Military Division of the Missouri, for the information of the lieutenant-general commanding.

J. H. TAYLOR,
Assistant Adjutant-General.

(In the absence of the brigadier-general commanding.)

[Inclosure 14 in 2 in No. 219.]

*Indorsement of Lieutenant-General Sheridan.*HEADQUARTERS MILITARY DIVISION MISSOURI,
Chicago, March 31, 1875.

Respectfully forwarded through Headquarters of the Army.

One would infer from this report that the channel of the Rio Grande has changed and that the people who were once in Mexico are now transferred to the American side of the line; and from their ignorance it is hard for them to realize their changed condition.

The report does not go sufficiently into these details of the troubles to enable me to express a decided opinion on the case.

P. H. SHERIDAN,
Lieutenant-General Commanding.

[Inclosure 15 in 2 in No. 219.]

*General Augur to Lieutenant-General Sheridan.*HEADQUARTERS DEPARTMENT OF THE GULF,
New Orleans, La., March 30, 1875.

Lieutenant-General SHERIDAN,
Commanding Military Division of the Missouri, Chicago, Ill. :

The following telegram has been received from Colonel Potter, at Brownsville, Texas :

"MARCH 29, 1875.

"Brigadier-General C. C. AUGUR,
Commanding Department of the Gulf, New Orleans, La. :

"There are many reports of a raid on the ranches in the vicinity of Corpus Christi, and of a threatened attack on Corpus Christi. Some ranches have doubtless been robbed and burned, some people killed and some taken prisoners. The prisoners are reported to have escaped. These marauders have been driven from the vicinity of Corpus by the citizens, and at last accounts were retreating, with the citizens in pursuit. I have sent all my mounted force to intercept the robbers. General Hatch has sent troops for same purpose.

"Many depredations have been committed along the river above this point of late, and several persons have been killed. I believe these robbers are Mexicans and that the most of them are from the other side of the river.

"There are probably several parties out for stealing cattle and robbing ranches. No reliable information as to numbers; will inform you if I learn anything more definite.

"J. H. POTTER,
Colonel Twenty-fourth Infantry, Commanding."

The above telegram came in response to one from me desiring to know if the telegrams in the paper referring to this invasion were true. There appears to be sufficient truth in them to show this to be the most serious raid made by the Mexicans into our territory for many years.

You know as well as I that the Mexican federal government has no control of affairs in the Rio Grande frontier, and is powerless, if so disposed, to restrain these

raiders, some of whom are doubtless most of the time residents on our side of the river, and in case of arrest could easily prove themselves to be good and quiet American citizens, and could cause the officers arresting them to be in turn arrested by the civil authorities for false imprisonment, as is frequently done.

It is not necessary, however, to say anything about the condition of the frontiers to you who have been so long familiar with it.

Colonel Potter has one company of cavalry; Colonel Hatch has five, and were it not that the residents on this side are mostly Mexicans, and in sympathy with the raiders and keep them informed of the whereabouts of the troops, they might accomplish something. They may do as it is, though it will be under great difficulties.

C. C. AUGUR,
Brigadier-General Commanding.

(Forwarded to headquarters of the Army by Lieutenant-General Sheridan.)

INDORSEMENT.

HEADQUARTERS OF THE ARMY,
Saint Louis, April 2, 1875.

Respectfully forwarded to the Secretary of War.

W. T. SHERMAN, *General.*

No. 431.

Mr. Foster to Mr. Fish.

No. 279.]

LEGATION OF THE UNITED STATES,
Mexico, May 4, 1875. (Received May 18.)

SIR: In accordance with the instructions received in your dispatches Nos. 206, March 29, and 207, March 31, I communicated to the Mexican minister of foreign affairs copies of the inclosures to those dispatches relating to the burning of the post-office at Nueces, Texas, and the outrages committed in that State by Mexicans as set forth in the telegram of Governor Coke to President Grant, and stated to the minister that the Government of the United States expected that the Mexican government would omit nothing which might be in its power toward preventing such raids upon the territory of Texas, and that it would do everything possible to secure the punishment, according to law, of the perpetrators of the outrages referred to. I also expressed the hope that I might, at an early day, be able to inform my Government of such action having been taken by the Mexican government as would satisfy its just expectations, restore peace and order to the exposed citizens of Texas, and quiet the complaints now being made in the United States.

Under date of the 17th instant, Minister Lafragua addressed me a note in reply, a copy and translation of which I inclose, in which he states that after receipt of notice of the unfortunate events, to which my note refers, a special recommendation was sent to the government of the States of Nuevo Leon, Coahuila, and Tamaulipas, urging the adoption of the most efficacious measures for guarding the frontier, arresting the marauders, and preventing a repetition of similar deeds; that the same instructions were sent through the department of war to the military authorities of the frontier, increasing at once the force on that line; and inclosing a telegram from General Escobedo reporting the arrest of eight persons, supposed to be connected with the recent raid. Mr. Lafragua closes his note by assuring me that his government was using all the means within its reach to secure the pacification and

tranquillity of the Rio Bravo frontier, and to prevent, so far as it may be possible, the repetition of similar outrages.

Not having any later communications from the Mexican government, and being desirous of transmitting you by the mail of the steamer closing to-night any further information which the Mexican government might possess, I called upon Mr. Lafragua at the foreign office on yesterday. In answer to my inquiries, he stated that a number of persons suspected of being connected with raids into Texas had been arrested, and that the authorities were exerting themselves to ferret out and secure the punishment of the guilty parties, and he hopes at an early day to inform me of the success of these efforts; but that at present he was not able to furnish me further intelligence.

I called his attention to the newspaper reports of additional raids and outrages in Texas, committed by marauders from Mexico, which were in part confirmed by the official information in the mail just received by me, and which I would transmit to him, and that I could not too strongly impress upon him the importance to the peace of that border of the Mexican government adopting the most stringent measures for the punishment and repression of these continued outrages.

In this connection, I alluded to one of the sources of irritation growing out of the refuge in Mexico of Indian tribes from the United States, and to the bad conduct of Mexican officials in connection with the recent efforts of United States commissioners to secure their return to their reservations; which will be made the subject of a separate dispatch. I also stated to him that one of the most fruitful causes of these border troubles grew out of the encouragement and favor shown the marauders by Mexican local authorities; that the history of the frontier disturbances and crimes established the fact that when the officials on the Mexican side of the Rio Grande were men of good character, maintained friendly relations with and furnished information to the American authorities on the Texas side of the river, and honestly sought to punish the offenders in Mexico, murder, robbery, and raiding into Texas were very infrequent, and the border troubles insignificant. But, on the contrary, when the local authorities were men of bad character, and unfriendly to the United States, marauding bands were numerous; they always escaped into Mexico with their booty in safety, and were never punished by the courts. I did not claim that the federal government could always guarantee the honesty and good faith of the local authorities, but it should make an earnest effort to inspire these officials, especially those under its direct orders, with the cordial and friendly spirit toward the United States, and desire for the peace of the frontier, which the Mexican government itself constantly expressed. I referred to the bad reputation which General Cortina sustained in the United States, to the general impression as to his hostility toward the people of Texas, and to the fact that his name was almost always connected in some way with the newspaper reports of the raids on the Lower Rio Grande, either as instigating, protecting, or profiting by them; and that his removal by his government to some other part of the republic would have a very salutary effect upon that frontier, and be accepted as an act of conciliation and peace toward the United States.

Mr. Lafragua remarked that General Cortina was not now in the military service of the government, but was acting in a local civil position, as alcalde, or mayor, of the town of Matamoras; to which I replied that while such was the case, he still held his commission as general in the army, was receiving pay from the federal treasury as such, and

was subject to the orders of the government; and, as I understand, could be transferred by it, at any time, to any other part of the republic. I then referred to a conversation which I had held in his absence with Mr. Arias, chief clerk of the foreign office, on the 30th of November last, in reference to Cortina's interference in securing the escape of the fugitive defaulter Hamilton, (a report of which interview I made to the Department in my dispatch No. 214, of December 1st, 1874,) and that Mr. Arias informed me that the war department had already ordered an investigation into his conduct. Mr. Lafragua stated that such investigation had been engaged in by General Escobedo, but that it had been found necessary to transfer the case to the civil authorities, who were prosecuting it; to which I replied that five months had elapsed since I had made complaint of General Cortina's course, and meanwhile, during the delay in deciding upon his conduct, the raids continued and increased in vigor, and that public rumor implicated him in one form or another in them. Mr. Lafragua acknowledged that it was desirable to effect his removal from the frontier, but the government was embarrassed in adopting measures to that end, especially on account of the personal troubles between General Cortina and Governor Canales. In that event, I remarked that it might become necessary for his government to decide whether the objection to his removal, growing out of his personal relations toward Governor Canales, would outweigh the embarrassments likely to arise with the government in case of his retention and continued complicity with the raiding and outlawry in Texas.

In closing our interview on this topic, Mr. Lafragua said that he would call the attention of the President to all of my representations, and that I might be assured that his government would omit no possible effort to restore and preserve peace on the Rio Grande frontier.

In closing, I have to acknowledge the receipt of your dispatch No. 214, of the 14th ultimo, and to report that I have transmitted a copy of its inclosure, giving details of the burning of the post-office at Nueces, Texas, to the Mexican foreign office for its information.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 279.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,
Mexico, April 14, 1875.

SIR: I have been instructed by my Government to promptly bring to your excellency's attention the depredations and outrages which have recently been committed in the State of Texas, near the Rio Grande, by raiding bands from Mexican territory, and to ask that your excellency's government will adopt such energetic and decisive measures as may be necessary on its part to punish the offenders and restore and preserve peace and order on that frontier.

The Department of State has been officially informed by the Postmaster-General that the post-office at Nueces, in Texas, was, on the 26th ultimo, robbed and burned, and a mail-courier to San Antonio robbed and taken prisoner. I inclose copies of the correspondence on the subject.

Although it is not believed that the acts referred to were committed or instigated by officers in the service of the Mexican government, they are obviously such as must create great resentment in the quarter where they occurred, and will probably lead to a retaliation, which will result in augmenting the disquiet and sense of insecurity on the border.

I also transmit to your excellency a copy of a telegram from the governor of the State of Texas to the President of the United States, in which he represents in strong language the state of alarm and insecurity in the country between the Nueces and Rio

Grande, in consequence of the depredations of organized bands of robbers from the Republic of Mexico; and in which he calls upon the President for protection to the people of that region against the invasions, which are increasing in force and boldness.

This protection will of course be given to the extent of the power of the Government of the United States; but I am instructed to state to your excellency that it is expected that the Mexican government will omit nothing which may be in its power toward preventing such raids upon the territory of the United States, and that it will do everything possible to secure the punishment, according to law, of the perpetrators of these outrages.

It will be very gratifying to me, at an early day, to be able to inform my Government of such action taken by your excellency's government as will satisfy its just expectations, restore peace and security to the exposed citizens of Texas, and quiet the complaints now being made in the United States.

Your excellency will please to receive upon this occasion the reiterated assurances of my high consideration and esteem.

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

[Inclosure 2 in No. 279.—Translation.]

Mr. Lafragua to Mr. Foster.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, April 17, 1875.

SIR: In your note of the 14th of this month your excellency is pleased to call my attention to the recent outrages committed on the bank of the Rio Grande by bands organized and proceeding from Mexican territory, inclosing therewith documents relating to the robbery and burning of the post-office in Nueces, Texas, and the telegram addressed by the governor of the State of Texas to President Grant, asking him to extend protection to people of that region; and expressing the hope that on the part of the government of Mexico the most energetic and efficient measures may be taken for co-operating with that of the United States in restoring tranquillity to that frontier, where the people are greatly alarmed, and the excitement which there exists being liable to lead to retaliations which will augment the disquiet and insecurity that reign upon that frontier.

In reply I have the honor to state to your excellency that, after the government received notice of the unfortunate events to which your excellency refers, it addressed a special recommendation to the government of the States of Nuevo Leon, Coahuila, and Tamaulipas, urging that they should order whatever measures they might judge proper for guarding in the most efficacious manner the frontier, and for discovering and arresting the authors of those outrages, if they should seek to take refuge in Mexican territory, striving with all diligence to avoid the repetition of similar deeds.

The department of war, to which was also addressed a similar "excitativa," to the end that, on its part, it should adopt the necessary measures, has issued its orders to the same effect, increasing at once the armed force on that line; and, as a result of these various measures, said department has received the communication a copy of which I have the honor to inclose herewith to your excellency, it being proper to add that the individuals who in it are said to have been apprehended are held as prisoners at the disposition of the federal government, it having been ordered that they be tried conformably to law, and that the punishment be applied to them which they deserve.

In the future the same strict vigilance will continue to be exercised by every class of authorities, to the end that tranquillity may be restored on that frontier and a repetition of these scandalous deeds be prevented.

I can assure your excellency that my government is using all the means within its reach to secure the pacification and tranquillity of the Rio Bravo frontier, and to prevent, so far as it may be possible, the repetition of similar outrages.

Besides, fresh reports have been requested of the corresponding authorities which I shall be careful to communicate to your excellency as soon as they are received, and meanwhile it is pleasant to renew the assurances of the sincere regard and very distinguished consideration with which I have the honor of being your excellency's attentive servant.

J. M. LAFRAGUA.

To His Excellency JOHN W. FOSTER,
*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.*

[Inclosure in 2 in No. 279.—Translation.]

*General Mejia to General Escobedo.*DEPARTMENT OF WAR AND MARINE,
Mexico, April 6, 1875.

CITIZEN MINISTER OF FOREIGN AFFAIRS:

Citizen General Mariano Escobedo, in a telegram of to-day from Monterey, reports to me the following:

"The authority of Mier reports to me: On the night of the 2d thirty Mexicans crossed the Rio Grande, carrying some clothing which they had stolen in Villa Nueva, Texas, where they burned a store; and these men on crossing the river dispersed, taking the road to the river San Juan. The police arrested two of them, and they declared that they were taken by the force which are servants of that village. The authority of Camargo reports to me eight individuals have been arrested in that municipality mounted and armed, appearing of bad character, of the band to which reference is made, which passed between this place and Mier. This I communicate to you for your information."

I have the honor to inclose this to you for your information, and the effects thereto pertaining.

Independence and liberty.

MEJIA.

No. 432.

Mr. Foster to Mr. Fish.

No. 280.]

LEGATION OF THE UNITED STATES,
Mexico, May 4, 1875. (Received May 18.)

SIR: The guerrilla bands of the State of Michoacan, which have been reported in my previous dispatches on the situation of the country, are still able to maintain their existence and organization, notwithstanding the repeated reports, sent by the officers of the army engaged in their suppression, of their defeat and dispersion. In addition to these, guerrilla or robber bands, more or less formidable, are reported in the States of Morelos, Queretaro, Guanajuato, Jalisco, and Sinaloa, and the disturbance of peace and order is at present greater than at any time during the past two years. The stage-coach from this city to Queretaro, carrying the public mails, was captured and robbed by a band of two hundred men on the 20th ultimo, and three of the passengers were taken out and shot in cold blood, one of whom was a member of the present Congress. The occurrence has caused a profound sensation in this capital, and the government is using vigorous measures to capture and punish the outlaws, but up to this date without success.

The Federal Congress is still in session, without any exciting topics or discussions, being chiefly engaged in considering the financial budget for the coming year. It has re-enacted the summary law on the punishment of highway-robbery and kidnapping for another year.

I am, &c.,

JOHN W. FOSTER.

No. 433.

Mr. Foster to Mr. Fish.

No. 285.]

LEGATION OF THE UNITED STATES,
Mexico, May 12, 1875. (Received May 27.)

SIR: Under date of the 18th ultimo, the consul at Matamoras, Mr. Thomas F. Wilson, reported to me, through the consul-general in this

city, the arrest of one Juan Flores, charged with the murder of T. H. Swift and his wife, in Refugio County, Texas, in June, 1874. Flores admitted to the judge in Matamoras, before whom he was brought, that he committed the murders, but claimed that he was a Mexican citizen; but had at the latest date failed to present any evidence in support of such claim. The consul, under instructions, as he states, from your Department, appeared before the court to aid in securing the extradition of the criminal, and insisted that, in order to avail himself of his claim of Mexican citizenship, Flores must establish that fact by proof. In addition to the presumption that the criminal was subject to the jurisdiction of the State where he committed the crime, the consul submitted to the court, as evidence that said Flores was actually a citizen of Texas, a certificate, signed by the governor of said State, under seal thereof, that Flores had registered and voted in Texas as a *native* of that State, having made oath to that effect. Notwithstanding the foregoing facts, the case was, at the date of the consul's letter, undecided, and he entertained well-grounded fears that through this delay improper influences, which were being exerted, would secure the illegal release of the criminal. Upon being advised thereof, I at once addressed the Mexican minister of foreign affairs a note, dated the 8th instant, reciting the foregoing facts, and requested that an "excitativo" be sent by telegraph to the judge at Matamoras to the effect that, if the guilt of Flores is established, and he does not prove his claim of Mexican citizenship, he be delivered to the American authorities under the terms of the extradition-treaty.

Mr. Lafragua, under date of the 11th instant, informed me that the instructions which I had requested had been sent by telegraph to the military commander at Matamoras to be communicated to the judge. I have to-day, in a note to Mr. Lafragua, returned my thanks for this action of his government.

* * * * *

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 285.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,
Mexico, May 8, 1875.

SIR: The consul of the United States at Matamoras, Tamaulipas, reports to me, under date of the 18th ultimo, the following facts: In June last a man named Juan Flores murdered T. H. Swift and his wife, in Refugio County, Texas. The murderer fled to Guerrero, Mexico, where he was traced and arrested, and a demand was duly made, under the provisions of the treaty, for his extradition. In Guerrero, Flores assumed the name of Juan Juarez. He, however, admitted that he had murdered Swift and his wife, and, as a defense to his extradition, claimed that he was a citizen of Mexico. The authorities of Guerrero sent Flores to Matamoras for trial before the judge of the first instance, Don Diego Castillo Montero, the commissioner of extradition. Flores admitted to the judge, at Matamoras, that he committed the murders, and again claimed that he was a Mexican citizen. Upon being so instructed by the Department of State at Washington, the said consul at Matamoras appeared before the court to aid in securing the extradition of the criminal, and insisted that, in order to avail himself of his claim of Mexican citizenship, Flores must establish that fact by proof; that he admitted that he was a fugitive criminal from Texas, and that the presumption would arise that he, having committed the crime in that State, was subject to its jurisdiction, which presumption must be removed by positive testimony to the contrary. But, in addition to this presumption, the said consul submitted to the court, as evidence that said Flores was actually a citizen of Texas, a certificate, signed by the governor of said State, under the seal thereof, that Flores had registered and voted

in Texas as a *native* of that State, having made oath to that effect. No evidence has been produced before the court tending to show that Flores is a citizen of Mexico, and consequently entitled to the benefit of the clause of the treaty which exempts either country from surrendering its own citizens. Notwithstanding the foregoing facts, the case is still undecided, and the consul entertains well-grounded fears that through this delay improper influences, which are being exerted, will secure the illegal release of the criminal. In view of the recent experience in the enforcement of the extradition-treaty at Matamoras, in the case of Alexander D. Hamilton, of which your excellency has full information, and in view also of the condition of public feeling in Texas at this time, I have to request that your excellency's government will cause an excitative to be sent by telegraph to the said judge at Matamoras, to the effect that, if the guilt of Flores is established, and he does not prove his claim of Mexican citizenship, he be delivered to the American authorities under the terms of said treaty, and that his decision be rendered as speedily as is consistent with the ends of justice.

Your excellency will please to accept the renewed assurances of my high consideration and esteem.

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

[Inclosure 2 in No. 285.—Translation.]

Mr. Lafragua to Mr. Foster.

MEXICO, May 11, 1875.

MR. MINISTER: I have had the honor of receiving your excellency's note of the 8th instant, relative to the extradition of Juan Flores, accused of being the murderer of T. H. Swift and his wife.

In view of the reasons expressed by your excellency, there has been dictated the order of which I have the honor to inclose a copy, hoping that by that measure the proceedings which have delayed the decision of this matter may be shortened.

It is very pleasant upon this occasion to renew to your excellency the assurances of my high and distinguished consideration.

J. M. LAFRAGUA.

His Excellency JOHN W. FOSTER,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

[Inclosure in 2 in No. 285.—Translation.]

The President to the minister of war.

DEPARTMENT OF FOREIGN AFFAIRS, (AMERICAN SECTION),
Mexico, May 11, 1875.

CITIZEN MINISTER OF WAR: The President orders that you will be pleased to communicate to the military commander of Matamoras, by telegraph, the following dispatch: "The American legation asks the extradition of Juan Flores, accused as the murderer of the American T. H. Swift, in June, 1874. If he has not proved that he is a Mexican citizen, and there are facts which establish his guilt, you will ask the judge of Matamoras that he deliver the criminal in conformity with the treaty."

"I communicate it to you for your compliance."

Independence and liberty.

[Inclosure 3 in No. 285.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,
Mexico, May 12, 1875.

SIR: It is with much pleasure I acknowledge the receipt of your excellency's note of yesterday, in which you inform me that the President has thought proper to carry

out the suggestion which I ventured to make in my note of the 8th instant in relation to the extradition of Juan Flores, arrested at Matamoras.

I tender to your excellency my sincere thanks for this prompt manifestation of the justice and friendship of the Mexican government, and again assure you of my most distinguished consideration.

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

No. 434.

Mr. Foster to Mr. Fish.

No. 287.]

LEGATION OF THE UNITED STATES,
Mexico, May 14, 1875. (Received May 27.)

SIR: In my dispatch No. 279, of the 4th instant, I transmitted a copy of my note to the Mexican minister of foreign affairs, relative to the late raid into Texas, with his reply thereto, and also a report of an interview which I had with the minister upon this subject. On the 3d instant I sent the minister a copy of the inclosure of your dispatch No. 214, of the 14th ultimo, giving fuller information concerning the burning of the post-office at Nueces, Tex., and other outrages.

Under date of the 7th instant, the minister, Mr. Lafragua, transmitted to me copies of communications received by him from the department of war and from the governor of the State of Tamaulipas, in reference to the measures ordered to guard the Rio Grande frontier and the progress had in the trial of the persons arrested upon suspicion of having taken part in the raid into Texas.

It will be noticed that the measures cited in said communications were taken very promptly by this Government, ten days or two weeks before the date of my first note to Mr. Lafragua, under instructions of the Department, making formal complaint of these outrages.

In a note of the 11th instant, in thanking Mr. Lafragua for the information furnished, I stated that I would forward it to my Government, which would doubtless be gratified to learn of the measures adopted, especially if they should prove efficacious in preventing the passage of the Rio Grande of further bands of outlaws to commit depredations in Texas.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 287.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,
Mexico, May 3, 1875.

SIR: I inclose herewith to your excellency a copy of a communication,* sent through the Secretary of War to the Department of State of my Government, giving fuller information in relation to the burning of the post-office at Nueces, Tex., and other outrages, which were the subject of the note which I addressed to your excellency on the 14th ultimo, and to which I had occasion to refer in our interview of to-day.

Your excellency will please to accept the assurances of my high consideration and esteem.

JOHN W. FOSTER.

To His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

* See inclosures in Mr. Fish's No. 214 to Mr. Foster, *ante*.

[Inclosure 2 in No. 287.—Translation.]

Mr. Lafragua to Mr. Foster.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, May 7, 1875.

SIR: In acknowledging the receipt to your excellency of your note of the 3d instant, and its inclosure relative to the outrages which have recently been committed in Texas, I state to your excellency that, in conformity with what I communicated to you in my note of the 17th ultimo, there have been ordered, both by this department and that of war, all the measures which have been thought most proper for the arrest, trial, and punishment of the criminals which may have sought refuge in Mexican territory. As your excellency will see by the copies, which I have the honor to inclose, and which are of a communication from the governor of the State of Tamaulipas, and of two others from the department of war, the guard of the line of the Bravo has been increased, and the arrested men, who had crossed the Rio Grande below Roma, after the preliminary investigations having been made, have been sent under secure guard to Saltillo, where they are at the disposition of the government for assigning them to the proper authority, according as the circumstances of the case may require.

I re-iterate to your excellency the protests of my distinguished consideration and esteem.

J. M. LAFRAGUA.

To His Excellency JOHN W. FOSTER,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

[Inclosure 1 in 2 in No. 287.—Translation.]

Mr. Mejia to Mr. Lafragua.

DEPARTMENT OF WAR AND MARINE,
Mexico, April 12, 1875.

CITIZEN MINISTER OF FOREIGN AFFAIRS: Colonel José L. Christo, in a communication dated the 29th of March last past, states to me the following:

"As I had the honor to say to you in my telegram dated yesterday, I to-day send you a certified copy of the letter of the citizen Mexican consul in Brownsville, sent to me on the date stated therein, as also the newspaper, which I received inclosed therein. By both of these you will be pleased to be informed of the recent events which have occurred in Texas, and the authors of which are said to be Mexicans from our territory; which, in my judgment, cannot be the case, granting that it is correctly stated that some Mexican robbers pass from this side to Texas, as also those from that side to this, they only engage in the robbery of cattle and horses, and never attack a town, as has occurred in the present case; for this reason my opinion is that the wrongs are committed by individuals resident in Texas itself, who, in consequence of local State questions, have risen up as a kind of insurrectionists against the government of Texas. Notwithstanding this, the same day on which I received the said letter I sent a force of cavalry to pass along the bank of the Rio as far as Reynosa, and I will keep it constantly in this service in order to be on the watch and to be prepared, both for anything which may occur and to furnish an opportune remedy, of which I will make report to your department, asking you, citizen minister, to give me orders for the manner in which I should proceed in this matter, as I greatly fear that, with the ideas only peculiar to Texas, efforts may be made to complicate the events, making us appear responsible for acts with which we have had no connection."

I quote this to you for your information and its proper effects, inclosing to you copies of the documents which are cited.

Independence and liberty.

MEJIA.

[Inclosure 2 in 2 in No. 287.—Translation.]

Governor Echarte to Mr. Lafragua.

GOVERNMENT OF THE STATE OF TAMAULIPAS,
Victoria City, April 22, 1875.

CITIZEN MINISTER OF FOREIGN AFFAIRS, MEXICO: With due promptness the government of this State has addressed the authorities of the line of the Bravo, making

known to them the contents of the telegrams which your superior authority was pleased to send me in your worthy communication of the 3d instant, relative to the local disorders or crimes committed in the interior of Texas, which outrages are supposed to have been perpetrated, in part, by some malefactors resident in Mexico, who avowedly went to those regions to commit acts of vandalism; with the object that these authorities may report to this superior authority the information which they may obtain, but especially with the object of preventing the crossing to American territory of any Mexicans to commit crimes, and also of arresting those who may have committed crimes there and who may come seeking a shelter in our communities.

You will please, citizen minister, to make known to the citizen President that there have already been taken the proper measures by this government, in order that there may not be the least occasion of complaint against the authorities of the frontier, stating to you that, on receiving the reports which have been called for, I will communicate them to your department for your superior information and in compliance with the request in your worthy note cited.

Independence and liberty.

FRANCISCO ECHARTEA.

A. PERALES, *Secretary.*

[Inclosure 3 in 2 in No. 237.—Translation.]

Mr. Mejia to Mr. Lafragua.

DEPARTMENT OF WAR AND MARINE,
Mexico, April 30, 1875.

CITIZEN MINISTER OF FOREIGN AFFAIRS: In a telegram of to-day General M. Escobedo states to me from San Luis Potosi, among other things, the following:

"Yesterday prisoners arrived at Saltillo. Direct me what proceeding ought to be instituted for their trial.

"Informed of the arrival of prisoners. As I said to you before, keep them in security, and inform me by this medium what is stated concerning the conduct, antecedents, and other circumstances which relate to said prisoners, in order that the proper determination may be made in regard to them, as up to the present nothing has been received."

I communicate it to you for your information.

Independence and liberty.

MEJIA.

[Inclosure 3 in No. 237.]

Mr. Foster to Mr. Lafragua.

LEGATION OF THE UNITED STATES,
Mexico, May 11, 1875.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 7th instant and its inclosures relative to the measures taken by your government for the arrest, trial, and punishment of the criminals guilty of the outrages in Texas, who may have fled to Mexican territory, and for the preservation of good order on the Rio Grande frontier.

I have to thank your excellency for the information contained in your said note, which I will communicate to my Government, which will doubtless be gratified to learn of the measures adopted, especially if they shall prove efficacious in preventing the passage of the Rio Grande of further bands of outlaws to commit depredations in Texas.

I renew to your excellency the assurances of my high consideration and esteem.

JOHN W. FOSTER.

To His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

No. 435.

Mr. Foster to Mr. Fish.

No. 288.]

LEGATION OF THE UNITED STATES,
Mexico, May 15, 1875. (Received May 27.)

SIR: In accordance with the instructions contained in your dispatches numbered 212, of the 12th ultimo, and 213 of the 13th ultimo, I, on the 8th instant, transmitted to Mr. Lafragua, minister of foreign affairs, copies of the inclosures accompanying said dispatches, and conveyed to him substantially the views expressed by you in regard to the troubles attendant upon the attempts made by the commissioners of the United States to secure the removal of the Kickapoos and other Indians to their reservation in the United States, and in regard to the desirability for both governments of such removal. I further alluded to the frequent presentation of this question by this legation to the Mexican government, and in view of the recent partial failure of the commissioners to accomplish the removal of these Indians from Mexican territory, I expressed to Mr. Lafragua the decided conviction that his government should give the subject a new consideration, with a view to the adoption of such effective measures as will entirely remove the opposition of the local authorities and residents, and make the work of the commissioners easy and their efforts completely successful. I also directed his attention to the fact that the presence of these Indians in Mexico is one of the remaining evil results of the late civil wars in the two countries; in support of which I cited the report of the Mexican border commission, (see English translation, pages 411 and 412,) and expressed the belief that this fact would furnish to him an additional reason why Mexico should manifest its good fellowship toward the United States in this matter. I also called attention to the statement of this same Mexican border commission, that these Indians did not come into Mexico with the consent of the Mexican federal government, but only with that of the local authorities; that such proceedings are recognized by the commission to be contrary to public policy, and this class of immigrants to be undesirable for the Mexican frontier, (see English translation, pages 417 and 421;) for which reasons I was persuaded Mr. Lafragua's government would find no impropriety in requiring the local authorities and citizens to abstain from every species of opposition, and in adopting such measures as would effectually secure the return of all those Indians to their reservations in the United States.

To this note, up to date, I have received no reply.

In my dispatch No. 279, of the 4th instant, I referred to an interview which I had with Mr. Lafragua on the subject of the Texas border troubles, at which the Indian troubles were alluded to, and Mr. Lafragua promised to bring the whole matter to the special attention of the President of the Republic, with a full statement of my representations upon the question. In a recent subsequent interview with Mr. Lafragua on other matters, he incidentally informed me that the report of the Sonora and Chihuahua investigation commission was momentarily expected by him, and that he would have the pleasure of sending me a copy as soon as it was received and could be prepared. Our Government may expect to be confronted with a long list of murders, injuries, and damages occasioned by the Indians of Arizona, (the Apaches,) especially in the State of Sonora, where their raids continue to be reported by the newspapers.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 288.]

*Mr. Foster to Mr. Lafragua.*LEGATION OF THE UNITED STATES,
Mexico, May 8, 1875.

SIR: I transmit herewith to your excellency two separate inclosures,* both relating to the Indians from the United States who have found a refuge in the Mexican Republic, and to which I respectfully direct your attention. The one inclosure embraces communications forwarded by the Secretary of War of the United States to the Department of State upon the subject of depredations recently committed in Texas by Indians believed to come from Mexico. The other inclosure, embracing communications forwarded by the Secretary of the Interior, contains the statement of Mr. Henry M. Atkinson, commissioner of the United States, as to the embarrassments which he has experienced in removing the Kickapoos and Lipan Indians from Mexico to their reservations in the United States. From that gentleman's statement, it appears that the local authorities, at least, are averse to that measure, and are not indisposed actively to thwart it.

I am instructed by the Department of State to bring the subject of these Indians, their depredations, and their return to their reservations to the attention of the Mexican government, and to urge such a definitive decision as will cause an effectual settlement of this long-standing matter. That Department is reluctant to believe that the authorities in this capital are insincere in their professions of good-will, but it is hoped that they may have sufficient control over the local authorities and residents of the frontier as to cause their orders to be respected, and to remove the obstruction placed in the way of the United States commissioners. It is difficult to see what substantial advantages Mexico can expect from retaining these Indians.

So long as they remain where they now are, they are tempted to plunder and to commit other acts of violence, not only upon Mexicans but upon the American side of the Rio Grande, keeping up that irritation which it would be obviously wise to allay by all honorable means. On the contrary, if the savages are delivered up to the United States Government to be disposed of, pursuant to its policy, (which is so favorably referred to in the report of the Mexican border investigation commission—see Sr. Galindo's report, page 152,) the Indians are kept from harming others, and have a chance of materially benefiting their condition.

This question has been the subject of much correspondence by this legation with the Mexican government within the past four years, and it is difficult to add anything to the representations which have already been made, but the recent partial failure of the commissioner to accomplish the removal of these Indians from Mexican territory leads me to express the decided conviction that your excellency's government should give the subject a new consideration, with a view to the adoption of such effective measures as will entirely remove the opposition of the local authorities and residents, and make the work of the commissioners easy and their efforts completely successful. When your excellency remembers that the presence of these Indians in Mexico is one of the remaining evil results of the late civil war in the United States and of the European intervention in this republic, (see Sr. Galindo's report, pages 114 and 115,) you will doubtless see an additional reason why Mexico should manifest its good fellowship toward the United States in this matter. These tribes took advantage of the partial paralysis of the authority of the United States in the Indian country, caused by the southern rebellion, to abandon their reservations and come over into Mexican territory. Such a movement never would have been permitted by the United States in time of peace, neither do I believe would have been acquiesced in by Mexico. Now that the United States Government has made an earnest effort to restore these Indians to their condition before the war, and have partially failed through the opposition of Mexican officials and citizens, I feel sure your excellency will recognize the obligation of your government to effectually remove or counteract this opposition. When it is borne in mind that the Indians did not come into Mexico with the consent of the federal government, but only with that of the local authorities, (see Sr. Galindo's report, pages 115 and 121,) and when such proceedings are recognized by the federal investigation commission to be contrary to public policy, and this class of immigrants to be undesirable for the Mexican frontier, (see Sr. Galindo's report, pages 121 and 130,) your excellency will find no impropriety in requiring the local authorities and citizens to abstain from every species of opposition, and in adopting such measures as will effectually secure the return of all these Indians to their reservations in the United States.

Awaiting the action of your excellency's government, I reiterate the assurances of the perfect consideration and esteem with which I remain, your obedient servant,

JOHN W. FOSTER.

His Excellency J. M. LAFRAGUA,
Minister of Foreign Affairs, Mexico.

*For these inclosures, see Mr. Fish's Nos. 212 and 213 to Mr. Foster, *ante*.

No. 436.

Mr. Foster to Mr. Fish.

No. 292.]

LEGATION OF THE UNITED STATES,
Mexico, May 24, 1875. (Received June 7.)

SIR: I inclose herewith an editorial, and a translation thereof, from the *Federalista*, one of the most prominent and influential of the daily newspapers of this capital, presenting a view of the Texas border troubles which is entertained by a large portion of the Mexican public, and which on that account may be interesting to the Department.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 292.—Translation.]

THE NORTHERN FRONTIER AGAIN.

[From the "*Federalista*" of May 22, 1875.]

The following letters, which we take from the *Progreso*, of Matamoras, will give our readers an idea of what is passing in Texas, of the really savage outrages which the Americans are committing upon Mexicans, and which undoubtedly they impute to the latter, in order to have a pretext to demand of our government satisfaction and indemnities, all based upon the most repugnant bad faith.

In our opinion, what these bandits wish is to make for themselves large fortunes at the expense of our country; and with that object in view, they have been and are laboring to organize a grand fraud upon the Mexican treasury.

And on the other hand, this persecution, which has been declared against the Texans of the Mexican race, is a grave indication that they are attempting to do with them as with the ancient inhabitants of the country, to destroy them, killing them like dogs, in order that there may be in their country no other race than the descendants of the Saxon.

Be this as it may, we believe that the government, in view of the data which it may have received, and of those which the newspapers of our own and the Texas frontiers publish, will know how to conduct the negotiations to a good end, acting with justice, but at the same time with dignity.

(Here follows a detailed account of outrages alleged to have been committed in Cameron County, Texas, by native Americans, painted like Indians, upon Mexicans, embracing the murder of several persons, the burning of houses, the destruction of ranches, &c.)

No. 437.

Mr. Foster to Mr. Fish.

No. 293.]

LEGATION OF THE UNITED STATES,
Mexico, May 25, 1875. (Received June 7.)

SIR: In my recent dispatches upon the political situation, I have referred to the existence of guerrilla bands in different States of the republic, the disturbed condition of the country, and the general feeling of uncertainty and insecurity prevailing. I have, however, had faith in the ability of the government, through the ordinary operations of the national army and the State guards, which latter were quite numerous and regularly organized, to put down all serious attempts at revolution, and within a reasonable time to exterminate the bandits. But a much more grave aspect was placed upon the situation by the application, on

the 18th instant, of the executive to Congress to revive the laws in force during the general revolution of 1871-'72, conferring upon the President "extraordinary faculties" in finance and war, and suspending some of the constitutional personal guarantees. This is a species of legislation quite common in the Mexican system of government, but is never resorted to except in the face of an alarming revolution, or at least under the pretext of great danger to the nation. Its objectionable features, in a republican point of view, are that it suspends the legislative power, and makes the executive a dictator to the extent of the powers granted. As the administration of Mr. Lerdo had thus far been marked with a greater degree of peace and order, and a greater regard for the constitution, the laws, and the normal methods of government than any previous administration in the history of the country, it was hoped that the republic had emancipated itself from the revolutionary and disorganizing spirit, and that a return to the exercise of "extraordinary faculties" by the executive would be unnecessary.

This application of the executive to Congress seems to show that my representations of the political situation of the country have not been too serious. I inclose herewith an official copy and translation of the "initiative" of the minister of the interior, proposing the revival of the laws referred to, and giving the reasons of the executive for making the application. It has already been favorably reported by the committee to which it was referred, and no doubt is entertained of its passage by Congress before its adjournment on the 31st instant.

The anti-administration newspapers, both liberal and Catholic, are opposed to the revival of the laws. They allege that the state of the country does not warrant such measures; that the President has contended that there were no fears of revolution, and that the *Diario Oficial*, the government organ, is constantly publishing telegrams announcing the defeat and dispersion of the guerrillas. They charge that the real object of the President, in asking the "extraordinary faculties," is to secure the election of a new Congress in July next favorable to his administration, thus preparing for his re-election in 1876, and to punish certain public men who are obnoxious to him. As indicating the spirit of the opposition, I inclose an extract and translation from the *Monitor*. As an answer to these charges, especially in so far as they relate to the exercise of constraint upon the coming elections, I inclose an editorial article and translation from the *Diario Oficial*.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 293.—Translation.]

Initiative of the executive asking extraordinary faculties in finance and war, declaring in force the laws of the 2d of December, 1871, and the 17th of May, 1872.

[From the "*Diario Oficial*," May 22, 1875.]

DEPARTMENT OF THE INTERIOR, (GOBERNACION,) Mexico, May 17, 1875.

To the Citizen Deputy Secretaries of the Congress of the Union :

The citizen governor of the State of Michoacan, under date of the 30th of April last, transcribed to the department in my charge the resolutions of which copies are inclosed, in which the honorable legislature of said State, on account of the gravity of the situation and the difficulties which surround the government at every step in fol-

lowing up the bands organized under religious pretexts, judges it necessary that the Citizen President of the Republic propose to the Congress of the union the suspension of the guarantees to which the law of the 17th of January, 1870, refers. Although this communication was duly received, no resolution had been given to it, because, although the violation of the peace and the uprising against the constituted authorities and the institutions which rule us were notorious, and order was disturbed not only in Michoacan, but in the States of Queretaro, Guanajuato, and Jalisco, the President wished to await the result of the continued pursuit which was being made of the reactionary bands, in order to see if it was possible not to ask of Congress the suspension of any guarantees and the authorization proper for the re-establishment of peace and order unfortunately disturbed in these States; but yet, by the kind of warfare which the bands carry on, formed by the ruggedness of the country, not being easy to overtake them, neither to have decisive combats, the people continue to suffer all the evils which this war of vandalism creates, and the government, under obligation to preserve the guarantees for which the constitution provides, has not been able to have all the liberty of action which it needs for the prosecution of the results which should be accomplished. Compelled in this way by the imperious law of necessity, by advice of the council of ministers it has resolved to solicit the chamber to declare in force the laws of the 2d of December, 1871, which conceded to the executive extraordinary faculties in finance and war, and suspended some of the individual guarantees, with the modifications of the law of the 17th of May, 1872.

The revival of these two laws is asked, because the executive considers them sufficient for the object, in place of that of the 17th of January, 1870, indicated by the legislature of Michoacan, which concedes greater amplitude of faculties and enlarges more the suspension of guarantees. In presenting this initiative, I ought to state in the name of the government that the revolution which is waged by the leaders who invoke it, it is hoped may not be seconded by reasonable and intelligent citizens, who love the institutions and principles of liberty and progress, which the nation has secured at the cost of so many sacrifices; but as, under a political pretext, every individual right is violated, the ruin of the material elements of prosperity is produced, commerce is paralyzed, and the discredit of the republic is occasioned, the duty of the government is not only to combat sedition where it is sustained with arms in hand, but to prevent its spread in the rest of the republic. The President would desire to make the least possible use of the authorizations which he solicits, striving that the people should not feel them more heavily than is absolutely inevitable. Thus he has formerly acted in similar cases, and if these authorizations should be conceded, he will employ them no further than for the exclusive object of re-establishing and assuring the public peace. While Congress should be in session, the government had not thought it necessary to ask the authorizations which this initiative contains, because the chamber could provide for the difficulties which might arise, but it being near to the last period of its sessions, on account of which the majority of the citizen deputies will return to their States, its re-assembling would be difficult, even if it should be convoked in extraordinary session. In order, therefore, that the executive may be able to face the situation, it has found itself under the necessity of asking the said authorizations, and it hopes that the chamber will see proper to grant them to guarantee our institutions and put an end to the civil war, which causes so many evils to the republic. In virtue thereof, by direction of the President, with the advice of the council of ministers, I have the honor to submit to the Congress of the union the following:

Project of law: Only article. There is declared in force, until one month after the next meeting of Congress, the law of the 2d of December, 1871, which granted to the executive extraordinary faculties in finance and war, and suspended certain individual guarantees, with the modifications of the law of the 17th of May, 1872.

(Here follow the laws cited and the resolutions of the legislature of the State of Michoacan.)

Independence and liberty.

CAYETANO GOMEZ Y PEREZ,
Chief Clerk.

[Inclosure 2 in No. 293.—Translation.]

PRESIDENT LERDO CONTRADICTING HIMSELF.

[From the "Monitor Republicano," Mexico, May 21, 1875.]

When the President of the republic pronounced his discourse before the chamber, he said that the bandits were almost annihilated, and that there was no fear of revolution. The Diario publishes with frequency the telegrams of the defeats which the

robbers suffer, and nevertheless the executive solicits of Congress extraordinary faculties. For what does he wish them? The executive has confessed that revolution inspires no fears. Now, what it wishes is to make the election of deputies and senators at its will, to prepare the re-election of the President, and to arrange the English debt. When, in 1871, the government of Mr. Juarez asked for extraordinary faculties, entire States had pronounced, with their governors at their head; there were symptoms of revolution against the authority in all parts, and there were more than 5,000 armed men in insurrection against the government; and, nevertheless, we were not in favor of conceding to it the faculties, because they would only serve to practice extortion upon the people. The Lerdistas of the chamber then thought as we did, and perhaps their chief was of the same opinion. Why, now, so great a change? It is not explained, then, that there is no occasion to grant these faculties. Extraordinary faculties signify the violation of the sovereignty of the States, declaring them in a state of siege; the violation of popular suffrage by means of brute force; the violation of the legislative power, depriving it of its functions; and, in fact, monstrosities without name, because with these faculties the executive can tear down every kind of liberties. The suspension of guarantees, which is a consequence of the faculties, is equivalent to levies, to kidnapping, so much the more reprehensible as the authorities commit them and not the robbers. Let the deputies form in their imagination a picture of the miseries which the country will present if these faculties are conceded, and, afterward, with their hands upon their hearts, if they are honest men, let them vote as their consciences dictate.

[Inclosure 3 in No. 293.—Translation.]

EXTRAORDINARY FACULTIES ASKED.

[From the "*Diario Oficial*," Mexico, May 20, 1875.]

The Trait d'Union of to-day, after expressing some considerations relative to the extraordinary faculties which the government has asked, says, among other things, the following: "If, as we wish to believe, the government has asked these faculties in order to re-establish peace in the districts in which it has been disturbed, and in order to put an end to the excesses of the insurrectionary bandits, public opinion will only have to congratulate itself upon the energetic measures which may be taken with that object; but if, as some appear to fear, the executive makes use of these faculties in order to exercise constraint upon popular suffrage, on the eve of the elections, we would be the first to lament the concession of these faculties, both for the prestige of the government, as well as for the good name of republican institutions." The first part of the expressions of the French colleague are entirely correct, and it has precisely comprehended the idea of the government, which has been nothing else, in asking extraordinary faculties, than that of removing such obstacles as may be presented, in the strictly constitutional sphere, in order to hasten as soon as possible the re-establishment of peace in the districts in which it is at present disturbed. In regard to the fears, which some manifest, in the direction which the Trait d'Union indicates, our colleague knows the natural propensity of political passions to depreciate all the acts of an administration. Free suffrage has no concern with the extraordinary faculties if these are conceded by the national representation.

No. 438.

Mr. Fish to Mr. Foster.

No. 228.]

DEPARTMENT OF STATE,

Washington, May 20, 1875.

SIR: Your dispatch No. 279, of the 4th instant, relative to Mexican raids in Texas, has been received. The assurances of a disposition on the part of that government to check them, which have been given to you by Mr. Lafragua, are satisfactory, so far as they go. Those maraudings, however, have of late been so frequent, bold, and destructive, that they have occasioned much excitement in the public on this side the river, which will probably lead to an expectation that acts on the part

of that government will show the sincerity of its professions. We are informed that a few of the raiders have been arrested on the Mexican side, and that probably they are on the way to the capital for trial. It is hoped that, if the proof should warrant their conviction, they will receive a full measure of punishment according to law, so that their fate may serve as an example for deterring imitators.

I am aware of no purpose here of acquiring an extension of territory on that frontier. If, however, as has been suggested to us, that government is embarrassed by the risk of desertions in sending a regular force to that quarter, it might not be indisposed to allow United States troops to cross and temporarily occupy the territory whence the raiders are in the habit of coming. The tract for such occupation might be embraced in a line drawn from Matamoras to Laredo. You will consequently sound the minister for foreign affairs on this point, and report the result.

It may be regarded as frivolous to seek to justify the hostile incursions into our territory on the ground of retaliation for similar excursions from this side. There have been none such, and proof of the contrary is challenged. Indeed, the charge is improbable on its face, from the fact that Mexico, near the border, holds out no temptation to plunderers from this side, while the reverse is the case in respect to baits in Texas for Mexicans.

I am, &c.,

HAMILTON FISH.

No. 439.

Mr. Foster to Mr. Fish.

No. 298.]

LEGATION OF THE UNITED STATES,
Mexico, June 5, 1875. (Received June 29.)

SIR: The last session of the seventh Congress of the union was closed on the 31st instant, and primary elections will be held on the last Sunday of this month for senators and deputies of the new Congress, which convenes on the 16th of September next. In my dispatch No. 293, of the 25th ultimo, I referred to the application of the executive to Congress to confer upon it "extraordinary faculties." As I had anticipated in my dispatch, Congress conferred the powers asked for by the executive, by a vote of 114 against 27. The concession continues in force until one month after the assembling of the new Congress. Before its adjournment Congress passed all the appropriations necessary for the various branches of the public service; among others, one of \$300,000 jointly for the national exhibition in this city and the international exhibition at Philadelphia in 1876.

The question of the constitutional power of the federal supreme court to inquire into the proceedings and decide upon the legality of the decisions of the electoral colleges and other electoral bodies has been an exciting topic for more than a year past in the courts, in Congress, with the executive, and in the newspapers. In a suit which was brought up from the State of Morelos, the supreme court decided against the legality of the election of the governor and certain members of the legislature of that State, and granted an "amparo," or protection, to owners of estates against the collection of taxes levied by said authorities. The governor proceeded to collect the taxes notwithstanding the decision, whereupon the supreme court, in accordance with a provision of the federal constitution, called upon the executive for an armed force to compel compliance with its decision.

The president declined to respond to the application of the supreme court; and for a time an open rupture between these two co-ordinate powers of the government was seriously threatened, but which happily was avoided. At the time, the president of the supreme court, Hon. José M. Iglesias, published an able argument on the question, involving also the principles of state rights and federal sovereignty; which was followed by an animated discussion by jurists and the public press. It was understood that President Lerdo dissented from the views of the president of the supreme court. At the recent session of Congress a law was passed forbidding and rendering it incompetent for any authority or body to revise or sit in judgment upon the decisions of the electoral colleges or other electoral bodies.

The president of the supreme court, considering said law as a direct assault upon the body of which he was the head, and as both unconstitutional and subversive of the judicial department of the government, tendered his resignation; but at the earnest solicitation of many public men he has consented to withdraw it, and has contented himself with entering his protest against the law upon the records of the supreme court. Mr. Iglesias bears the reputation not only of an able jurist and an incorruptible judge, but is one of the most highly esteemed and useful of the public men of Mexico, and his withdrawal from the service and the support of the government could not fail to be a public calamity. Among the most important of the acts of the last session of Congress were the concessions granted to various projected railroads. In my dispatch No. 226, December 23, 1874, I referred to the contract made by the executive with the International Railroad of Texas, of which Hon. E. L. Plumb is the representative in this country, and submitted to Congress at its session in December last. This contract has been ratified by Congress and is now a law. It will be made the subject of a separate dispatch. The contract celebrated by the executive with Mr. David Boyle Blair, for the construction of a railroad from Guaymas, through the State of Sonora, to the frontier of Arizona Territory, in the direction of Tucson, has also been ratified by Congress, and has now the full force of a law. The terms of this concession are set forth in my dispatch No. 226, December 23, 1874. Mr. Blair is a resident of San Francisco, and is understood to represent joint American and English interests.

A concession was granted to a Mexican organization to construct a railroad from the city of Matamoras to the bar of Jesus Maria, a new port in the State of Tamaulipas, on the Gulf of Mexico; and also to another Mexican company for a railroad to connect the city of Oaxaca with the Mexico and Vera Cruz Railroad. Among other acts passed by Congress are a concession for a line of coast steamers between the Mexican ports on the Pacific Ocean and the Gulf of California, and a law to encourage immigration, a copy of which latter will be forwarded to the Department as soon as officially promulgated. The government official newspaper continues to publish reports of engagements between the federal troops and small bands of guerrillas in the States of Michoacan, Guanajuato, and Queretaro, with uniform success on the part of the government. The railroad from Vera Cruz to Jalapa, a distance of seventy-one miles, has been concluded, and is now open to the public.

Owing to the steep grades, it is only designed to use locomotives on a small portion of the line, the cars being drawn the greater distance by mules.

I am, &c.,

JOHN W. FOSTER.

No. 440.

Mr. Foster to Mr. Fish.

No. 300.]

LEGATION OF THE UNITED STATES,
Mexico, June 8, 1875. (Received June 29.)

SIR: The minister of foreign affairs, under date of the 5th instant, has transmitted to me a copy of the final decision of the federal supreme court in the case of the appeal of five of the criminals sentenced to death for the murder of Rev. John L. Stephens, at Ahualulco, in March, 1874, in which the court decides that it cannot protect them from the penalty of death. The minister also states that he has requested the government of the State of Galisco to give him notice of the final result of the case, which he will promptly communicate to me.

It may, therefore, be anticipated that official notice may be received at no distant day that merited punishment, so long delayed, has been inflicted upon a portion of the assassins of the American citizen, Rev. John L. Stephens.

I am, &c.,

JOHN W. FOSTER.

No. 441.

Mr. Foster to Mr. Fish.

No. 302.]

LEGATION OF THE UNITED STATES,
Mexico, June 10, 1875. (Received June 29.)

SIR: In my dispatch No. 226, of the 23d of December, 1874, I gave you information of the celebration of a contract between the executive of the republic of Mexico and Hon. E. L. Plumb, as the representative of the International Railroad Company of Texas, for the construction of a railroad from the city of Leon, in the State of Guanajuato, to Laredo or other point on the Rio Grande, to connect with the said International Railroad, and of the submission of said contract to the national Congress for its ratification.

I now have the honor to inform you that this contract was ratified by Congress, with unimportant modifications, by an almost unanimous vote on the 29th instant, and that it has been officially promulgated as a law. I inclose herewith a translation of the law, as also an editorial from the *Two Republics*, a newspaper published in this city, which editorial contains an abstract of the main features of the concession, and some well-considered remarks upon the enterprise and the effect which its realization is likely to have upon the interest of the two republics.

Communications between the two republics by an improved commercial land-route, which would afford free intercourse and trade, has always been a favorite measure with the Government of the United States. In the instructions which accompanied the appointment of our first minister to Mexico, Mr. Poinsett, which were written by the then Secretary of State, Henry Clay, our representative was particularly instructed to exert himself to secure the co-operation of the Mexican government in the construction of a projected road to connect the two nations, from Saint Louis through the Indian country, via Santa Fé and New Mexico, (see Mr. Clay to Mr. Poinsett, dispatch No. 1, March 25,

1825;) similar instructions were given by the succeeding Secretary of State, Martin Van Buren, (see Mr. Van Buren to Mr. Butler, dispatch No. 1, October 16, 1829.) The measure, in various forms, has been the subject, at different periods, both of diplomatic negotiation and of individual solicitation for concessions from the Mexican government, but the present contract is the first definitive and complete authority granted by this government for the construction of a railroad from the interior of the republic to connect with the railroad system of the United States.

The realization of the enterprise cannot fail to have a highly desirable influence upon both countries in their commercial, political, and social relations.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 302.]

THE INTERNATIONAL RAILROAD.

[From the "Two Republics," June 9, 1875.]

After negotiations which have extended over a period of nearly four years, a final and satisfactory result has been reached in the important preliminary work of the necessary legislation in Mexico for the International Railroad.

The contract, which was concluded on the 12th of December last, between the minister of public works, in representation of the executive of the union, and Mr. Edward Lee Plumb, in representation of the International Railroad Company of Texas, was ratified by the Mexican Congress on the 29th ultimo, by an almost unanimous vote—116 to 13. The corresponding decree has since then been officially published, and the concession is now a law.

In an extra of our paper of this week we publish a translation in full of this important document, taken from the *Diario Oficial* of the 7th instant.

The ratification by the Mexican Congress of the concession authorizing the construction and granting government aid for the railroad which is to be the great international highway of communication between Mexico and the United States, is an event of no ordinary public interest.

The immediate and powerful influence which the realization of this work will have upon the industrial development of Mexico, and the building up of an enormous commerce between the two countries, is, in the very nature of the case, almost self-evident. Establishing, as it will, direct and speedy means of communication between the central regions of population and production of Mexico and the principal centers of population and consumption in the United States, it will afford to Mexico an immense market for the tropical and other products which her peculiar climate and favorable soil is capable of yielding to an almost unlimited extent.

And not alone will the realization of this enterprise tend to develop commerce between Mexico and the United States; but, powerfully stimulating production in Mexico as it will, by the cheap and ready access that will be afforded to the markets of the United States, it will also, in an almost similar degree, tend to increase commercial relations between Mexico and Europe. The importation into Mexico of foreign effects is as yet limited because the ability of the country to buy is restricted. As the financial capacity of Mexico is increased by a profitable commerce with the United States, in tropical and other products, so her ability to buy from Europe, and to meet her financial obligations there, will be correspondingly increased.

It would be a very narrow view, and one not justified by experience, to imagine that the opening of direct communication by railroad between Mexico and the United States will diminish the business transacted by steamship with the Gulf ports, or will unfavorably affect commerce between Mexico and Europe. On the contrary, just as the general development and prosperity of the country is promoted so will its commerce with all parts of the world be augmented, and will flow freely by all the different means of communication which modern commerce stimulates and demands.

The concession which has now become a law provides for the construction of a railroad of the standard gauge, (4 feet $8\frac{1}{2}$ inches,) from the city of Leon, in the State of Guanajuato, to the Rio Bravo del Norte, there to connect with the International Railroad of Texas. The precise line to be followed, whether by San Luis Potosi, or by

Agascalientes, Zacatecas, and Durango, is left to be determined as shall be found to be most practicable and desirable by the surveys.

The distance to be constructed is between six and seven hundred miles.

The obligations of the company to be formed are to deposit a bond for two hundred thousand dollars within six months from the date of the law; to complete the survey of 200 kilometers (124 miles) within eighteen months; to complete the survey of the entire line within two years and a half; to commence work at the terminus on the Rio Grande within three years from the date of the law; to complete 100 kilometers (62 miles) of the road within fifteen months from the time fixed for the commencement of the work, and 120 kilometers each year, or 240 every two years thereafter; and to finish the entire line within nine years from the date of the law.

If the road is completed in one year less than the stipulated term of nine years, the company is to receive a premium of one hundred thousand dollars; if in two years less, a premium of two hundred thousand dollars for each of the two years; if in three years less, a premium of three hundred thousand dollars for each of the three years; and if in four years less than the prescribed term, the premium is four hundred thousand dollars for each of the four years.

In aid of the construction of the road, the Mexican government gives to the company, in the character of donation, a subvention of \$9,500 per kilometer, (\$15,288 per mile,) payable with 25 per cent. of all the import duties caused in the frontier custom-houses of the Rio Grande and that of Matamoras. For this purpose a special paper is to be issued to the company on the completion of the first 100 kilometers and each 20 kilometers thereafter, with which alone the said percentage can be paid.

The road and property of the company is also exempted from all taxation for the period of fifty years, and everything required for the construction and operation of the road is admitted free of duty during the term of fifteen years.

As is evident, the terms of this concession manifest great liberality and breadth of view on the part of the government of Mexico, and are such as will secure the prompt and unhesitating realization of the work.

At the previous session of the Mexican Congress a concession was ratified for the construction of a railroad of the same gauge, (4 feet 8½ inches, which is also that of the Vera Cruz road,) from the city of Mexico to Leon, 280 miles, passing by the important cities of Queretaro, Celaya, Salamanca, and Guanajuato. This central road, which will be finished by the time the International Road is completed from the frontier to Leon, will afford, in connection with the International, an unbroken line of communication from the United States to this capital, and the important, interesting, and populous surrounding region. From Leon and the Central road, branches will also penetrate into the rich and important States of Michoacan and Jalisco, to Morelia and to Guadalajara, the capital of the latter State, a city of 75,000 inhabitants.

Leon is a city of 100,000 inhabitants, situated in the State of Guanajuato, which has a population of 900,000 in an area of but 11,411 square miles, or an average of 78.87 to the square mile, which is greater than that of the State of Ohio (66.69) or Pennsylvania, (76.56,) in the United States.

Accompanying the translation of the concession, published in our extra, are some statistics of population and of the probable future commerce between Mexico and the United States, which will prove of general interest.

The distance yet to be completed in Texas to carry the international railroad of that State to the Rio Grande is but 235 miles from Rockdale, the present terminus, to Laredo.

Of this the distance between Rockdale and Austin, the capital of the State, 62 miles, will probably be completed by the end of the present year. From Austin to San Antonio, 78 miles, the road will probably be constructed during the year 1876. From San Antonio to the Rio Grande is about 150 miles, over a very easy line. The completion of this link within the next three years will enable the construction of the Mexican international road to be commenced.

But it is not necessary to wait for the completion of the portion of the Texas International between Austin and San Antonio, to obtain access to the frontier. The Galveston, Harrisburg and San Antonio Railroad is now completed from Galveston to Luling, 201 miles, leaving but 60 miles, which will be built this year, to be completed to reach San Antonio, and thus afford transportation as far as that point from Galveston for rails and other materials for the Mexican international road. There are also other lines, partially constructed and projected, leading from the Gulf toward San Antonio and the border, by which transportation can be furnished in due time.

From all the information which reaches us, it appears probable that there will be an immense mineral development in the Mexican border States of Coahuila and Nuevo Leon, so soon as means of communication shall be provided for the introduction of machinery and supplies and the transportation of ores, either to Galveston for their shipment to Europe for reduction, or to Saint Louis, Mo., for their reduction at the extensive smelting-works which have been established at that place.

In the trade in cattle and wool there will also be an immediate and profitable commerce.

Penetrating farther into the State of Coahuila, a region of wonderful fertility for the production of cotton will be reached. The trade in tropical fruits will require a special train every day; and there remain the great staples of sugar and coffee, the products of the maguey, and a thousand other articles which will enter into the valuable commerce which is to be created by means of the international railroad between Mexico and the United States.

The government of Mexico, through its executive and legislative branches, has now freely opened the door for this great work, and the immense and profitable commerce between the two countries that will follow. It is for the connecting roads in the United States, which are to receive the vast traffic that will flow out from Mexico, to do their part to aid toward the prompt realization of this grand enterprise—the most important, useful, and desirable that now remains to be undertaken upon this continent.

[Inclosure 2 in No. 302.—Translation.]

The Mexican International Railroad.—Contract with the government of Mexico.—Approval by the Mexican Congress.

[From the "*Diario Oficial*," Mexico, June 7, 1875.]

DEPARTMENT OF PUBLIC WORKS, COLONIZATION, INDUSTRY, AND COMMERCE.—Section 3.

The President of the republic has been pleased to address to me the following decree:

"SEBASTIAN LERDO DE TEJADA, *Constitutional President of the United Mexican States, to the inhabitants of the same, be it known:*

"That the Congress of the union has thought proper to decree the following:

"The Congress of the union decrees:

"SOLE ARTICLE. The contract concluded December 12, 1874, between the minister of public works, in representation of the executive of the union, and Edward Lee Plumb, in representation of the International Railroad Company of Texas, for the construction and operation of a railroad and its corresponding telegraph, from the city of Leon, in the State of Guanajuato, to the Rio Bravo del Norte, is hereby approved, in the following terms:

"ARTICLE 1. The International Railroad Company of Texas is hereby authorized to construct and operate a line of railroad and its corresponding telegraph, from the city of Leon, in the State of Guanajuato, to the Rio Bravo del Norte.

"The said line shall follow the direction which, according to the surveys of the company, approved by the department of public works, may appear to be the most desirable, in connection with the central line from the city of Mexico to Leon, to place the capital of the republic in communication, either by means of the main line or of the necessary branches, as nearly as may be practicable, with the cities of Lagos, Aguascalientes, Zacatecas, Durango, San Luis Potosi, Saltillo, and Monterey, terminating on the Rio Bravo del Norte at the point that may be the most convenient to form a connection with the International Railroad of Texas, which the said company is now constructing across the said State, and to establish a continuous line of connection from a point on the Central Railroad with the railroads of the United States.

"ART. 2. The said company is hereby authorized to immediately commence the necessary surveys, which shall be at its own expense, in order to determine the location of the lines of railroad designated in the present law.

"Before commencing the work of construction on the different sections of the line there shall be remitted to the department of public works, for its approval, a copy of the maps of survey and of the plans of the location of the road.

"The survey of the first 200 kilometers of the line shall be concluded, and the corresponding plan submitted to the department of public works for its approval, within the term of eighteen months, counted from the date of this law.

"The general survey of all of the line shall be concluded, and the corresponding plan submitted to the department of public works for its approval, within the term of two years and a half, counted from the date of this law.

"An engineer, appointed by the executive and paid by the company, may accompany each of the principal surveying parties of the said company, forty days' previous notice being given by the latter to the government of the time when the surveys are to commence; but the said surveys shall not be delayed nor considered incomplete by reason of the absence of the engineers to be appointed by the executive.

"ART. 3. The work of construction on the line at the city of Leon, or at the point

which, according to the surveys of the company, approved by the department of public works, may be found to be the most desirable to form a connection with the Central Railroad from the city of Mexico to Leon, shall commence within three months, counted from the date of the completion of the said Central line to Leon, or to the said point of connection, and that it shall be placed in operation.

"The work of construction at the terminus of the line on the Rio Bravo Del Norte shall commence on the Mexican side of the said river within three years, counted from the date of this law.

"Within fifteen months, counted from the termination of the period stipulated for the commencement of the work of construction at the one or the other extremity of the line, there shall be completed at least 100 kilometers (62.14 miles) of railroad of the said line.

"In each of the subsequent years there shall be constructed at least 120 kilometers, or 240 every two years, until the completion of all of the line of railroad to which this law refers.

"The work from the different points mentioned in this article shall be prosecuted in such manner as shall assure the completion of all the line of the railroad from the city of Leon, or the point of connection with the Central Railroad, to the Rio Bravo del Norte, within the term of nine years, counted from the date of this law.

"ART. 4. In case the company should complete the said railroad from the city of Leon to the Rio Bravo del Norte in a period of one year less than the stipulated term of nine years, the government will pay to the company, in the character of donation and as a premium, the sum of one hundred thousand dollars; if the road should be completed in two years less than the stipulated term the premium shall be two hundred thousand dollars for each one of the two years; if it should be completed in three years less than the stipulated term the premium shall be three hundred thousand dollars for each of the said three years; and if the road should be finished in four years less than the prescribed term the premium that the government will pay to the company shall be four hundred thousand dollars for each of the said four years.

"The said premium shall be paid to the company in certificates of the same character as those which are to be issued in conformity with the terms of the present law.

"ART. 5. For the purpose of the construction, possession, and operation of the line of railroad and telegraph designated in this law and under the provisions which in it are established, the said International Railroad Company of Texas obligates itself to organize in the United States of America a company to be denominated 'The Mexican International Railroad Company.'

"The possession and exercise of all the rights and concessions which are conferred by the present law, as also the compliance with all the obligations imposed by it, will pertain to the Mexican International Railroad Company from the time of its organization, and before such organization to the International Railroad Company of Texas.

"The Mexican International Railroad Company, as also the said International Railroad Company of Texas, shall be considered as Mexican in all that relates to the present concessions; and all the persons who may take part in the same, whether as shareholders, employés, or in whatever other character, shall be considered as Mexican in all that relates to the said enterprise within the territory of the republic; they cannot allege rights as foreigners with respect to interests or affairs relating to the enterprise, nor can they have, even when alleging denial of justice, other rights nor other means of making them valid in whatever may concern the said enterprise than those which the laws of the republic concede to Mexicans, nor can they employ other proceedings than those established before the Mexican tribunals.

"ART. 6. The Mexican International Railroad Company shall not be considered as organized until there shall have been subscribed in good faith \$2,000,000 of the capital stock, and paid in cash into the treasury of the company ten per cent. of the subscription, which facts, as also that of the formal organization of the company, shall be legally verified before the department of public works within the term of three months counted from the date stipulated in article 2, for the completion of the general survey.

"During one year, counted from the date of the said verification, the company shall place at the disposition of the public in Mexico, in order that it may subscribe there to, one-half of its capital stock upon the same terms in which the shares may be offered in the United States of America.

"After the expiration of said year the company shall be free to dispose of its shares in such place as it may deem convenient.

"The statutes of the said company and the bases of its organization shall be submitted to the department of public works for its approbation, within the term of three months; counted from the date stipulated in article 2, for the completion of the general survey.

"ART. 7. The company shall have a domicile in the republic of Mexico, where a

part of its board of directors, composed of five members, shall reside, of whom two shall be appointed by the executive and three shall be appointed by the company.

"This part of the board, as also the part of the direction which may be established in the United States of America, shall exercise the functions which may be conceded to them by the statutes, and shall have the powers which, from time to time, may be conferred upon them in a general meeting of the shareholders.

"The company shall appoint in this capital a representative fully authorized and empowered to treat with the federal government and other authorities of the republic with reference to all affairs relative to the obligations which are imposed upon it by this law, and whatever in the future may be executed or agreed upon with relation to the same.

"Whenever any doubt or question shall arise with respect to the interpretation of or compliance with the stipulations of the present contract, it shall be decided by the competent federal tribunals of the republic, and in conformity with the laws of the same.

"ART. 8. Neither the company to which this concession is made nor that which it may form can at any time transfer, alienate, or hypothecate the concessions of the present law, the railroad, the telegraph, and the property annexed thereto, nor the shares it may emit, to any foreign government or State, nor admit the same in any case as partner in the enterprise; and any stipulation made in violation of this precept shall be null and of no effect.

"Nor can the Mexican International Railroad Company transfer or alienate the concessions of this law to any company or private individual without the previous permission of the federal executive, and any transfer or alienation made without this requisite shall be also null and without effect.

"The company, nevertheless, is hereby authorized freely to emit shares, bonds, and obligations, and to dispose of the same, as also to hypothecate the railroad and its appurtenances, with the right of operating the same, and the telegraph line, in whole or in part, as the construction of the same may progress, to secure the payment of said bonds and obligations and interest thereupon, with the condition that the mortgage shall be made in favor of individuals or of private associations.

"The mortgages that may be made by said company shall be registered in the office of public records of the city of Mexico, and this registry shall be held as sufficient proof of their validity and legal execution in all that relates to all of the lines of the railroad of the company, and local registry in the States or places where the road may pass shall not be necessary.

"ART. 9. The capital stock of the company shall not exceed \$25,000,000, divided into shares of \$100 each.

"The said shares shall be considered as personal property, which may be freely transferred or disposed of in conformity with the laws and with the rights and privileges accorded in this concession.

"The line of railway itself, to which this law refers, and the lands and other property legally acquired by the company by virtue of cession or purchase, the edifices, warehouses, stations, machinery, utensils, materials, and all other objects which constitute the railroad and telegraph line, as also its branches and appurtenances, shall be considered as the property of the company, with the right of making use of the same upon the same terms and under the same conditions as whatever other property, but subject to the provisions of the laws actually in force, or that in the future may be decreed with regard to railroads, without it being understood by this that the conditions of this contract cannot be altered.

"Even in the case that, from the causes which hereinafter are specified, the present concession should become void, the company shall enjoy the full control, possession, and use of all the property, and of the portions of railroad and telegraph line that it may have constructed, and will preserve unalterable its right to the payment by the government, in the form prescribed in article 12, of the subvention that may be due to it for the kilometers that may have been constructed, there remaining in force with regard to the portion or portions of railroad and telegraph line that the company may have, the obligations which, with reference to all the line, are established by this law.

"ART. 10. The railroad of the said company shall be of single or double track, of 1.45 meters in width, (four feet eight and one half English inches;) it shall be of a solid construction, and shall be provided with a sufficient quantity of rolling-stock for the prompt and effective working of the road, and warehouses and stations shall be established at all the places that may be required by the public interest and the business of the company, in the judgment of its engineers.

"The company shall have the right of connecting the railway which it is about to construct, with any other railroad now existing, or that may hereafter be constructed in the republic; and it shall also have the right to operate and maintain its railroad in connection or consolidation with any other railroad company, by agreement with the same, under such terms as it may deem most advantageous.

"ART. 11. In order to aid the construction of the lines of railroad and telegraph to

which this concession refers, the government binds itself to give to the company, in the character of donation, a subvention of \$9,500 for each kilometer (\$15,288 per mile) of railroad that it constructs, and that shall be approved by the department of public works, according to the terms of this law; but this subvention shall only have effect when the company shall have constructed and placed in operation the first one hundred kilometers of railroad, and successively for sections of twenty kilometers completed, approved by the department of public works and placed in operation; and the obligation contracted by the government in no case shall be extended to give subvention for a distance which shall exceed a total of thirteen hundred kilometers.

"ART. 12. In order to render effective the said subvention, there shall be issued by the government, in favor of the company, immediately that each section of railroad shall have been completed, approved, and opened to public use, obligations for the amount corresponding to the said subvention, without causing interest, under the title of 'construction certificates of the Mexican International Railroad,' which shall be redeemed with 25 per cent. of all of the import duties that may be caused in the frontier custom-houses of the Rio Bravo del Norte, and in that of Matamoras, as also in the custom-house which may be established at the point on the Rio Bravo where the railroad shall terminate, if the same should not be one of those already mentioned.

"These certificates shall be issued by the department of public works, and shall commence to be redeemed from the 1st of January of the year following that of the beginning of their emission. From that date no importer shall pay in money, nor in any other manner but in the said paper, 25 per cent. of the duties that may be caused in the said custom-houses, under the penalty of being subject to second payment, which shall be of double the sum to which the quota would have amounted, and paying the same one-half in paper in order that the provision of the law shall be in all cases complied with, and the other half in money applicable, according to the regulations of the law of forfeitures, to the informers.

"ART. 13. The company shall be obliged to maintain, in all of the points mentioned, a sufficient quantity of the said certificates in order that those paying duties may be able to obtain the same with due opportunity.

"In no case can the company sell the certificates at a higher price than that of their representative value, under the penalty of returning to the purchaser the excess, and of paying treble the amount as a fine in favor of the treasury.

"ART. 14. For the construction and operation of the lines of railroad and telegraph authorized by this law, there is hereby conceded to the company the right of way for the width of sixty meters (one hundred and ninety-seven feet) in all the extent of the line.

"The lands belonging to the government, which may be occupied by the line for the width established, and the land necessary for stations, warehouses, and other edifices, water-tanks, and other indispensable accessories of the road and its appurtenances, if the same shall be of national property, shall be delivered to the company without any compensation and in perpetual property.

"In the same manner the company can take from the public lands materials of all kinds that may be necessary for the construction, operation, and repair of the road and its appurtenances.

"The company can take, in conformity with the laws of expropriation for purposes of public utility, the lands and materials of construction belonging to private individuals, and those that may not be national property, necessary for the establishment and repair of the railroad and its appurtenances, stations, and other accessories; and until these laws shall be issued by the congress of the Union, the company shall be subject to the following provisions:

"I. In case of disagreement between the company and the owner of the lands and of materials of construction, which are private property, the department of public works is hereby authorized to decree, at the petition of the company, the expropriation of the private property the occupation of which shall be necessary.

"Such property shall be taken upon previous indemnification being made, which shall be determined by two experts, appointed one by each party, who, before commencing to act, shall select a third to decide in case of disagreement. If the experts should not agree in the selection of a third, the latter shall be appointed by the department of public works.

"II. If the occupant or owner of the property shall be unknown or doubtful, whether by reason of litigation or other motive, or shall refuse to appoint an appraiser, either under judicial process, or apart from the same, the executive shall authorize the occupation of the said property upon the previous deposit by the company of the sum which in each case shall be determined by an expert appointed by the executive, subject to the condition of making good, when the occupant or owner shall be decided, such further value as in the appraisement by experts may be ordered in conformity with the preceding rule, or of withdrawing the excess of the deposit if the award shall be for a less sum.

"III. The experts, in making their appraisal, shall take into consideration the amount

of taxes paid by the property the expropriation of which is treated of, and the injuries or benefits which may result therefrom to the proprietor.

"In no case can the company expropriate the deposits of water, whether natural or artificial, nor the works necessary for their preservation; but it can take the water required for the supply of the locomotives and the indispensable use of the stations, subjecting itself in this to the prescriptions of the laws.

"All mines of metals, as also those of coal and salt, marble and other workable mineral deposits, which may be encountered in the works and excavations which may be made on the line of the road and its branches, shall be the property of the company, without prejudice to third parties, with the condition that the same shall be denounced and worked subject in all respects to the mining ordinances.

"ART. 15. Materials of construction, whether of native or foreign production or derivation, effects, and whatever may be necessary for the construction and use of the lines of railroad and telegraph authorized by this law, as also the rails, sleepers, spikes, locomotives, carriages, trains, and their accessories, tools and instruments of labor, machinery for the workshops, iron, bridges, houses for stations, offices, and warehouses, coal, working animals, their harness and gearing, carts and wagons, telegraphic wire and apparatus, and all other materials necessary for the construction, operation, and repair of the railroad and telegraph line, shall be free for the term of fifteen years, counted from the date of this law, from all import or custom-house duties whatever, previous notice being given to the department of public works, and from excise duties, contributions, road-taxes, or imposts decreed up to the present time, or that may hereafter be decreed by whatever authority of the republic, and whatever may be the class, denomination, or object of the said imposts.

"In the use of these exemptions there shall be observed the regulations that may be issued by the departments of treasury and of public works.

"The road itself and its natural and indispensable appurtenances, as also the capital employed in its construction and operation, and the shares of the company, shall be exempt during the term of fifty years, counted from the date of this law, from the payment of all contributions or imposts now established, or that may be established in the future.

"ART. 16. The directors, engineers, employés, and the subordinates of the offices and stations of the railroad, as also the laborers that may be employed upon it, shall be exempt from all kinds of military service and from municipal services during the time they may be employed upon the road, except in case of foreign war.

"The company shall have the right to organize the interior service of its lines and its guard, which latter shall enjoy the same consideration as the guards of the national revenue.

"The company shall immediately discharge from its service any of its employés who may enter into or protect contraband traffic, or commit any crime, and shall aid the authorities in their apprehension.

"It is also obliged to comply on its part with the regulations that may be issued by the department of treasury for the prevention of contraband traffic and for the observance of the fiscal laws.

"The federal government and the governments of the States shall extend to the company all the aid and protection that may depend upon their authority, without prejudice to third parties, and the same shall be extended by the local authorities, without the necessity of superior order or requisition.

"All persons stealing rails, or damaging or interfering with the road in any manner, may be arrested by the company's guard and delivered to the competent judge, in order that they may be punished according to the gravity of their offense.

"The company shall be responsible for the payment of the wages of the laborers, the cost of materials, and all the expenses incurred in the construction of the road, even when the work may be executed by contractors or subcontractors, for the said work is executed by the latter in behalf of the company.

"ART. 17. Upon the definitive location by the company, with the approval of the department of public works, of the direction of the line, the said company is hereby authorized to make, at the point of termination on the Rio Bravo del Norte, the improvements which may be necessary or desirable for the security and facility of the traffic, and may acquire and possess the necessary land at each of the extremities of the line, for the purpose of establishing warehouses, depots, workshops, and other works necessary to facilitate the construction and operation of the railroad.

"ART. 18. The sections of railroad, as the same may be completed by the company, shall be immediately examined at its expense by an engineer appointed by the executive, and the latter, upon hearing the report of the engineer, will authorize or not the opening of the section for business.

"In case of not authorizing the opening, the executive shall publish the report of the engineer who may have intervened, and the causes of the dissent.

"Immediately upon placing in public use the sections of the road, the company shall

fix the tariff of prices that are to be charged for the transportation of passengers, merchandise, and other freight, which shall not exceed the following rates:

"For the freight of each ton of twenty quintals, of 45.38 kilograms each, [2,000 lbs.] of merchandise:

"First class, 6 cents per kilometer. [9.65 cents per mile.]

"Second class, 4 cents per kilometer. [6.43 cents per mile.]

"Third class, 2½ cents per kilometer. [4.02 cents per mile.]

"For the transportation of passengers:

"First class, 4 cents per kilometer. [6.43 cents per mile.]

"Second class, 2½ cents per kilometer. [4.02 cents per mile.]

"The company shall not be obliged to receive less than twenty-five cents for any quantity of freight, nor less than ten cents for passage for any distance.

"The company shall have the right to establish its tariff of freight and passage with reference to the difficulties and expenses of operating the different portions of the line, without the necessity of observing a proportion to the number of kilometers of the entire line, with the condition that the freight and passage shall not exceed in any kilometer the maximum prescribed in this article.

"Special tariffs may be established, which shall be submitted to the approbation of the executive, for such objects or effects as cannot properly be subjected to weight or measure.

"Two years after the completion of all of the line and its having been placed in operation, the company, in accord with the executive, shall modify the tariff of freight and passage; but without preventing that the dividends to the shareholders shall be at least ten per cent. per annum.

"In case of modification by the company of its tariff containing rates less than the maximum prescribed in this contract, or less than the maximum that may be established after two years, in conformity with the preceding clause, the said alteration shall not commence to take effect in case of raising the rates of freight on merchandise within the maximum, until after four months' notice to the public, nor within two months in case of lowering the rates.

"The distribution of effects in the three classes of the freight tariff shall be made in accord with the government every two years, counted from the completion of the road, should not the law prescribe for this purpose in the future longer periods.

"From the commencement of the operation of the road to Aguascalientes, and successively that of the subsequent sections, cereals of national production shall be included always in the third class.

"Rails and materials destined for the construction and operation of railroads in the country shall also always be included in the third class.

"The charge for telegrams which may be transmitted by the lines of the company shall not exceed the following:

"For each message not exceeding ten words beside the date, address, and signature, that may be transmitted a distance not exceeding one hundred kilometers, twenty-five cents.

"For each additional ten kilometers of distance, or for each word contained in the message above the first ten, there shall be paid not to exceed the proportional part of the rate of twenty-five cents for ten words, for one hundred kilometers.

"The federal government shall have the right to place one or two telegraph wires on the posts of the company, and the latter the obligation to preserve the same in the same condition as that of its own property. Both services shall be rendered gratuitously, it being solely the duty of the executive to indemnify the company for the value of the wires that may be replaced.

"The federal government shall establish its telegraph-offices independent from those of the company, and shall retain the right to the said telegraph wires only so long as it may possess and administer the same.

"ART. 19. The government shall have the privilege, in the transportation of troops, trains, munitions, equipage, provisions, horses, mules, and whatever other object or effect destined to the public service that may be proceeding from one point to another on the lines of the company, as also in the passage of officers of the army and federal employés traveling on public service, a reduction of 50 per cent. upon the prices charged according to the general tariff; but to avoid abuses which in this respect might be committed, it is hereby stipulated that in each instance of the dispatch of troops or the transportation of trains, munitions, or effects, and of passage, there shall be given by the government, or by the superior functionaries authorized for this purpose by the government, a special order for the directors of the line.

"Immigrants arriving in the republic with the due authorization of the government shall enjoy the advantages conceded to the armed force.

"For the term of fifteen years, counted from the completion of the first section, the company will perform gratis on its lines of railroad, as the same may be placed in operation, the transportation of correspondence, printed matter, and employés dispatched by the post-office department in the service of the same; but this service shall

be in such manner that there shall not be caused on that account any variation in the regulations and orders of the company with regard to hours of departure and stoppages at the points which it may think proper to determine.

"After the said fifteen years the mail service upon the lines of the company will be a matter of contract.

"ART. 20. The obligations contracted by the company with regard to the periods of time stipulated in this law, shall be suspended in all fortuitous cases or of *fuerza mayor*, which may impede the fulfillment of the said obligations; such suspension shall continue only for the time of the continuance of the impediment, it being the obligation of the company to present to the executive within the term of three months after the commencement of the impediment information and proof that such fortuitous case or of *fuerza mayor*, of the character mentioned, has occurred.

"From the sole fact of not presenting the information and proof within the time stipulated, the company shall be debarred from at any time thereafter alleging the occurrence of such fortuitous case or of *fuerza mayor*.

"The company shall also present to the executive information and proof that the work has been resumed immediately that the impediment has ceased, or at least within two months thereafter; which said information and proof shall be presented within the two months following the two first mentioned.

"There shall be allowed to the company only the time that the impediment may have continued, or at the most two months more.

"There shall be allowed to the company the time that the executive may employ in the examination and approval of the plans referred to in article 2 of this law, if this time shall be more than one month.

"ART. 21. Beside the other obligations expressed in this law the company shall have the following:

"I. It shall not transport any foreign armed force without the express permission of the federal government.

"II. It shall not transport effects belonging to a belligerent power, or declared contraband of war by the laws of the Mexican Republic, without the express authorization of the federal government.

"III. Within six months from the date of this law the company shall give a bond in the city of Mexico satisfactory to the executive, to the amount of two hundred thousand dollars, this requisite being indispensable for the existence and validity of the concessions made in this law; and the said sum shall be forfeited by the company in case of non-compliance with the obligations stipulated in article 3.

"ART. 22. The concessions granted by this law shall be forfeited from either of the following causes:

"I. From failure to comply with the obligations specified in the clauses of the preceding article.

"II. For not constructing the first 100 kilometers, the sections of 240 kilometers, and not completing all of the road within the time stipulated in article 3.

"III. For alienating or transferring this concession, or the rights derived from it, to any foreign government or state, or by admitting the same as partner in the enterprise.

"In whichever of the cases so specified the company shall forfeit the concessions granted by this law, of which the government can then dispose at its pleasure; but the said company shall retain the ownership of the edifices which it may have constructed, of the part of the railroad and telegraph which it may have completed, and of the materials, machinery, and other objects employed in its operation.

"ART. 23. The company shall present to the department of public works an annual report, setting forth the operations in each fiscal year, which shall terminate on the last day of June, of the lines of railroad constructed by it.

"This report shall be made under affirmation that it is true, and shall show the financial situation of the company; the amount of money received and expended; the amount and character of its debts, and the various kinds of the same, as also what may be due to the company; the total amount of shares issued; the names and residences of the directors and chief employés of the company; the number of kilometers of road constructed and in operation each year; a description of the sections of the road surveyed and in process of construction; the amount received from passengers and for freight respectively; the expenses of the road in operation and its accessories; the number of passengers carried, and the amount of freight transported, specifying the classes of the same.

"Palace of the legislative power, Mexico, May 29, 1875.

"JULIO ZÁRATE,
"Deputy President.
"LUIS G. ALVIREZ,
"Deputy Secretary.
"J. V. VILLADA,
"Deputy Secretary."

Wherefore I order that the same be printed, published, circulated, and that due compliance be given to it.

Given in the national palace of Mexico, the 5th of June, 1875.

SEBASTIAN LERDO DE TEJADA.

To the Citizen Blas Balcárcel, Minister of Fomento, Colonization, Industry and Commerce.

And I communicate the same to you for your information and the consequent ends. Independence and liberty. Mexico, June 5, 1875.

BALCÁRCEL,

A true copy. Mexico, June 5, 1875.

M. BUSTAMANTE.

No. 442.

Mr. Foster to Mr. Fish.

N 303.

LEGATION OF THE UNITED STATES,
Mexico, June 11, 1875. (Received June 29.)

SIR: The annual report of the minister of finance, Hon. Francisco Mejia, for the year ending June 30, 1874, was recently published in two volumes, and contains a very complete and satisfactory exhibit of the finances of the republic.

The total receipts into the national treasury for the fiscal year are stated at \$20,942,707.19, and the expenditure therefrom \$20,910,193.05; and a balance is reported of \$1,287,608.97 as remaining in the treasury. The principal item of revenue is from the maritime custom-houses, whose gross receipts amounted to \$11,393,547. The receipts from stamp-duties were \$2,252,394, but, as the stamp-tax has been revised and extended during the current year, it is expected that the revenue from this source may at least be doubled. The total revenue from internal tax on products, merchandise, real estate, and licenses is placed at \$1,763,547. The receipts of the post-office service are reported as \$523,583, and its expenditures at \$490,087; showing that this department is self-sustaining. Among other items of receipts are noticed the following: From the mints, \$367,056; lottery-tax, \$171,048; sale of public lands, \$34,375.

Among the items of expenditures are: For the federal Congress, \$760,506; for the executive power, \$44,894, of which \$30,000 is for the salary of the President; for the federal judiciary, \$271,079, of which \$74,598 is for the supreme court, \$40,163 for the circuit courts, and \$156,317 for the district courts; for the department of foreign affairs, (state,) \$190,376, of which \$72,806 is for the diplomatic and consular service, \$17,631 for the mixed commission at Washington, and \$25,754 for the investigation commission of the northern frontier; for the department of government, (interior,) \$1,551,965; for the department of justice (attorney-general) and education, \$751,402, of which \$426,139 is in aid of national schools and colleges; for the department of public works, \$1,649,901, of which \$174,504 is for telegraphs; \$448,078 for roads and bridges, \$676,200 for railroads, \$33,981 for improvement of the ports, \$36,617 for the drainage of the valley of Mexico, and \$111,565 for expenses of the mints; for the department of finance, \$3,296,539; and for the department of war, \$8,753,021; to which should be added, for the expenses of the federal district military guard, &c., (department of gov-

ernment,) \$885,706; making a total of \$9,638,727, or about one-half of the entire expenditures of the federal government. The total force of the national army may be estimated at about 23,000 officers and men. The total number on the pension-list, civil and military, is 2,409, and the annual amount of pensions is \$1,479,249.

The foregoing statement of expenditures includes nothing for the public debt, upon which no interest is at present being paid. There are no official data upon which to fix accurately the public debt. The foreign debt is officially stated to have amounted in 1861 to \$76,000,000; so that at present, with the increased and accumulated interest, it may safely be estimated to exceed \$100,000,000. The adjusted domestic debt was reported in 1873 to be \$10,352,067.

I am, &c.,

JOHN W. FOSTER.

No. 443.

Mr. Foster to Mr. Fish.

No. 305.]

LEGATION OF THE UNITED STATES,
Mexico, June 17, 1875. (Received July 12.)

SIR: I transmit herewith an official copy and translation of the law passed at the last session of the Mexican Congress to encourage immigration to this republic.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 6 in No. 305.]

THE COLONIZATION LAW.

[From the "Two Republics" of June 23, 1875.—Translation.]

The following is the colonization law passed by congress on the 31st of last May.

ARTICLE I. The executive is authorized to issue a decree to definitely determine and arrange everything relative to colonization, to effect this by means of direct action, or by contracts with private companies, upon the following bases:

I. To allow to companies a subvention for each family radicated, or another smaller for each family disembarked at any point; make advances of amounts, not exceeding fifty per cent. of the subvention; sell lands susceptible of colonization upon long terms and at moderate prices, payable in annual installments, subsequent to the land having been measured, surveyed, and valued; a bonus for each emigrant family; exemption from port duties for all vessels bringing to the republic ten or more families of such character; a bonus for each native family radicated in the emigrant colonies; a bonus for each Mexican family radicated in the frontier colonies.

II. To exact from the companies sufficient guarantees for the fulfillment of their contracts, without omitting to designate the cases of forfeiture and the respective fines; security that the colonists will enjoy, as far as depends upon the contractors, all the privileges conceded by this law.

III. To grant the colonists Mexican naturalization and citizenship when naturalized; advances on the expense of transportation and for subsistence for one year after their establishment, upon industrial implements, and upon materials for the construction of their habitations; the proprietorship by sale and at low prices, payable on long terms, in monthly installments, which installments will commence after the second year of their radicacion, a stipulated extent of land for cultivation and a homestead; exemption from military service and all taxes, except municipal taxes, from the payment of all importation and interior duties on provisions, industrial implements, tools, machinery, fixtures, materials for the construction of habitations, furniture for use, and animals for work or breeding destined for the colonies; and also personal and untrans-

ferrable exemption from the export duties on fruits which they gather; free correspondence with their native country, or former residence, through the department of foreign affairs, or by means of special seals; a premium on and special protection for the introduction of any new agricultural product or industry.

IV. To exact of the colonists the fulfillment of their contracts in conformity with the common laws.

V. To appoint and put in movement the exploring commissions authorized by section 26 of the prevailing estimate for obtaining lands susceptible of colonization, with the requisites of measurement, surveys, valuation, and description.

VI. To furnish public lands with the requisites demanded by the foregoing fraction; and whoever shall fill these requisites shall obtain the third part of these lands, or the value of the same, whenever acting with due authority.

VII. This is the only authority of the executive, who cannot deny it to a State which demands it concerning land situated in its territory, remaining without effect and without the right of prorogue, the authorization which may be granted to States and individuals, when, at the end of three months after such grant, the necessary operations have not commenced.

VIII. To acquire, in convenient cases, lands for colonization from individuals, by purchase, by cession, or by whatever other contract in conformity with the rules established for public lands in fraction VI.

IX. To furnish for the lands of individuals, at their solicitation, the colonists that can be disposed of in virtue of contracts for emigration that may have been made.

X. To consider the colonists in this character and with all their prerogatives during ten years, at the termination of which period all privileges will cease.

ART. 2. The executive is also authorized to disburse, during the next fiscal year, when regulated, the sum of \$250,000 for the expenses exacted by this law, including the exploring commissions.

No. 444.

Mr. Foster to Mr. Fish.

No. 307.]

LEGATION OF THE UNITED STATES,
Mexico, June 25, 1875. (Received July 22.)

SIR: With my dispatch No. 288, of the 15th ultimo, I transmitted a copy of the note, which, in accordance with your instructions, I had addressed to the minister of foreign affairs, in reference to the difficulties and opposition which the commissioner, Mr. H. M. Atkinson, had encountered in Mexico in seeking the return of the Kickapoos and other Indians to their reservations in the United States.

I now have the honor to inclose to you a translation of Mr. Lafragua's reply, dated on the 19th instant. In this reply he enters upon a review of the Kickapoo Indian question, justifies the conduct of the Mexican government, and re-iterates its disposition to do all it properly can to facilitate the return of the Indians to the United States, but states that he has no power to require their extradition. He attributes the origin of whatever local opposition there may be to the harsh judgment of Texan newspapers and citizens against the Mexican people and authorities of the frontier, and to their projects of invasion and acquisition of territory. He informs me, in conclusion, that new instructions have been issued to the governors of States where the Indians are located to remove any obstacle which may present itself whenever their removal is again attempted.

In acknowledging the receipt of Mr. Lafragua's note, I deemed it important to briefly notice his reference to the want of power of his government to require the return of the Indians, and to the state of public sentiment in Texas.

I may mention in this connection the fact that the newspapers of this

capital have published an article from the newspapers of the United States which purports to be a statement made by Mr. Atkinson of the results of his mission, in which he is reported as saying that he was highly successful in procuring the return of the Indians to their reservations.

I am, &c.,

JOHN W. FOSTER.

[Inclosure 1 in No. 307.—Translation.]

Mr. Lafragua to Mr. Foster.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, June 19, 1875.

MR. MINISTER: I had the honor of receiving, with its inclosures, your excellency's note of the 8th of May last, in which you are pleased to inform me that you have received instructions from the State Department to call the attention of the Mexican government to the subject concerning the Kickapoo and Lipan Indians, to their depredations and return to their reservations, and to urge that a definite decision be adopted with a view of settling, in an effective manner, this affair so long delayed.

Your excellency further states that the State Department is reluctant to believe that the authorities of this capital are insincere in their declarations of good-will, but that it is to be hoped they will have sufficient influence over the local authorities and residents of the frontier to cause their orders to be respected, and remove the obstacles which the United States commissioners find in their way.

For this reason your excellency enters upon various considerations on the inconvenience that the above-mentioned Indians should remain on Mexican territory, and complains of the bad success met with recently by the United States commissioner sent to remove the Kickapoos, on account of the opposition shown by the local authorities, respecting which your excellency indicates that the government should again take this subject into consideration in order that definite measures be taken to entirely remove that opposition and facilitate the commissioner's work that their efforts may be successful.

Your excellency has thought proper to allude to the origin of the presence of the Kickapoos in Mexico, and, supported by Mr. Galindo's report, your excellency sees an additional reason why Mexico should show her good disposition toward the United States; and entering on further considerations concerning the difficulties which have been presented for the complete transfer of the Indians, your excellency concludes by repeating the desire that the authorities and citizens of the corresponding localities may be required to abstain from all opposition, and that such measures may be adopted as will secure, in an effective manner, the return of the Indians to their reservations.

Your excellency's note and inclosed documents have been considered in connection with the previous antecedents already received by my department on this subject, and in conformity with the desire of the State Department of the United States, I have given full account to the President of the republic, who, after having again examined said affair, has directed that I should answer your excellency as I now have the honor to do.

A solution has been sought, in fact, for a long time to the question relative to the Indians of the frontier, on account of the depredations attributed to them, and with the view of causing them to return to their reservations in the United States; but unfortunately, when this last point began to be discussed, the most proper means were not proposed. It was desired that the Kickapoos should be driven away by force, and this was not within the powers of the government. Permission was solicited afterward that United States armed troops should be allowed to enter Mexican territory, to follow up the Indians, and take them to their former reservations; but neither in this case could the government give its assent, both because it was the function of Congress to give permission to foreign troops to enter the national territory, as also because the indiscretion and ill-will of persons in Texas who have suggested the invasion of the frontier, and circulated projects for the annexation of those States to the republic of the north, have engendered among the Mexicans of those frontier localities certain irritation and suspicious fear, which might have produced, perhaps, not only results contrary to the wishes of both governments, but an actual conflict between the two nations.

In fact, if your excellency, and also the State Department of the United States, attentively notice the Texas newspapers, their bitter language, the exaggeration of

the facts that have taken place, or the complete inexactness, as well as the hard judgment against the inhabitants of the Mexican frontier, without distinction of classes or persons, your excellency and Government will undoubtedly be led to know the origin of certain dispositions and opposition which the Mexican government does not approve, but which are easily explained; and in order to oppose and remove these, the Government seeks to act with extreme prudence, avoiding, as far as possible, that those alarming and offensive incidents should be increased, and that they should be responded to with bitterness; for the Government understands that retaliation in the press is not the best means of re-establishing confidence and good harmony between the inhabitants and authorities of that frontier.

The extradition of all these Indians was also at another time proposed; but neither the laws of Mexico nor the respective treaty favored that idea.

Finally the United States entertained the idea of appointing commissioners that should come and in a peaceful manner treat with these Indians, and make arrangements with them for their transportation to the reservations to which they had been assigned. The Mexican government, which has no interest in these Indians remaining in Mexico, not only approved with pleasure that proposition, but, assenting willingly to the suggestions made by the United States minister and Mexican minister at Washington, instructed the local authorities at Tamaulipas, Nuevo Leon, and Coahuila to facilitate the removal; ordered that the necessary forces should be furnished to escort the commissioners; approved the appointment of a Mexican agent, who diligently, and with good-will, should effectively aid said commission in its work; and the minister of the treasury ordered the necessary measures for the free introduction of provisions and effects necessary for the maintenance and removal of the tribes that were to be transferred to Texas.

As a result of those dispositions, Mr. Atkinson informed the governor of Coahuila, on the 30th of August, 1873, that the greater part of the Kickapoos and all of the Pottawatomies had left for the United States. He thanked him for his aid, and especially for the assistance of Captain Montero, whom Mr. Atkinson wished to meet as Mexican commissioner in case he returned for the rest of the Kickapoos. Your excellency also, in a note dated the 1st of December of the same year, informed me of the recommendation in favor of Captain Montero, expressing the favorable estimation made of his good services.

The short narrative of these facts, known to your excellency, shows in an unmistakable manner the good and constant disposition of the Mexican government concerning this affair, and that the State Department of Washington very rightfully does justice to the Mexican authorities in being reluctant to believe that their declarations are not sincere.

In spite of this, your excellency, in conformity with the information and data received lately from the Government of the United States, insists that effective dispositions should be dictated to secure the return of the Indians to their reservations in the United States, requiring that the authorities and citizens of the frontier should abstain from all opposition in this respect.

The information received by this department from the government of Coahuila of the success of Commissioner Atkinson in his new expedition is found on the copies which (inclosed) I send your excellency, adding, on my part, that the authorities of said State, as well as those of Tamaulipas, far from showing any opposition to the general government, have stated that the departure of these Indians should be encouraged on account of the harm they do within Mexican territory, and because their depredations in Texas are not only detrimental to the neighboring republic, but because they increase the uneasiness of the inhabitants of both frontiers, cause them to distrust each other, engender animadversion, and serve as a pretext for attributing to Mexicans all the disorders, robberies, and crimes committed in those places, thence originating interminable complaints and hateful recriminations.

Nevertheless, as it is very possible that some inferior agents or some other individuals, moved by private interest, try to hinder the transportation of the Indians, instructions are now given to the respective governors to remove any obstacle that may present itself whenever the removal of the Indians to their reservations is attempted.

It is not true that General Fuero has protested against the removal of the Kickapoos. The fact is that some of the individuals of that tribe, resentful, perhaps, for the unjustifiable assault which they suffered from Colonel McKenzie, and not appearing before Commissioner Atkinson, remained in a place called Nacimiento, where it was not convenient that they should remain; for they could continue doing harm, not only on Mexican territory but in Texas, and thus give origin to new animosities and reclamations. Hence General Fuero asked that they should be brought into the interior, assigning them some reservation distant from the frontier. Accordingly, it was ordered by the minister of war that a proper place should be assigned in the State of Durango in order that the Kickapoos might occupy it, ordering General Fuero, at the same time, to prosecute and punish vigorously the rebellious and guilty Indians.

It is very probable, I repeat, that in those sparsely populated regions there may be

some individuals, who, on account of prejudices, whose origin has already been explained, or on account of private speculation, may present some difficulties to the transfer of the Indians, but this transitory evil can only be remedied by the United States commissioners observing the greatest possible prudence, reporting immediately the difficulties met with to the superior authorities of those places, in order that the obstacles may be removed and competent persons be appointed known as capable of honestly aiding the said commission.

With what I have already said I think I have satisfactorily answered your excellency's note, assuring you that the government will always be well disposed to accept every means proposed for the removal of the savage tribes whenever those means are in accordance with its duties and powers.

I avail myself, with pleasure, of this new opportunity to repeat to your excellency the assurance of my highest and most distinguished consideration.

J. M. LAFRAGUA.

To His Excellency JOHN W. FOSTER,

Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

[Inclosure 1 in 1 in No. 307.—Translation.]

Mr. Flores to Mr. Lafragua.

GOVERNMENT OF THE STATE OF COAHUILA DE ZARAGOZA,
SECRETARY'S OFFICE.

As a special commissioner from the State of Coahuila, I have the honor of informing the superior government of the result of the interviews had between the American commissioner, H. M. Atkinson, and the chiefs of the tribes of Kickapoos, Lipans, Mescaleros, and Comanches concerning their transfer to the American reservations. Mr. Atkinson having set forth the advantages they would receive and the good disposition of his Government to protect them, being at the same time responsible for the support and education of their children, Captains Mosquito of the Kickapoos, Guacha Viejo of the Lipans, Colorado and Henrique of the Mescaleros, and Taquigraf of the Comanches agreed to accept the benefits offered them by the American nation, promising to set out on their march as soon as they received the supply of provisions they need until they arrive at the place where they are to locate. I inform you of the above in order that you may forward it to the governor. Independence and liberty. Zaragoza, April 7, 1875.

JESUS DEL MORAL.

To the SECRETARY OF THE STATE GOVERNMENT,

Saltillo.

A true copy of the original, which I certify, Saltillo, May 10, 1875, the secretary being absent.

RAMON L. FLORES,
Assistant Officer pro tem.

[Inclosure 2 in 1 in No. 307.—Translation.]

GOVERNMENT OF THE STATE OF COAHUILA DE ZARAGOZA,
SECRETARY'S OFFICE.

As a special commissioner from the State of Coahuila to make arrangements for the transportation of certain tribes to their American reservations, I have the honor of informing the superior government, through you, that a number of Indians (given below) have left for the reservation of the American Army. This number is composed of the different tribes settled in the State, a few of the Kickapoos, for the most part women, remaining at the Nacimiento, district of Monclova, a few more at the hacienda de la Cadena, near Durango, and some Lipans at the Remolino, with whom the American commission was not able to make any arrangements, Mr. Atkinson having been suddenly called away by the President. Mr. Atkinson stated that the new commissioner would be here within twenty days to end these negotiations. One hundred and fifteen Kickapoos—men, women, and children—9 Comanches, 26 Mescaleros, 5 Lipans; total, 155. Independence and liberty.

Zaragoza, April 20, 1875.

JESUS DEL MORAL.

To the SECRETARY OF THE STATE GOVERNMENT,

Saltillo.

A true copy of the original, which I certify, Saltillo, May 10, 1875, the secretary being absent.

RAMON L. FLORES,
Assistant Officer pro tem.

[Inclosure 2 in No. 307.]

*Mr. Foster to Mr. Lafragua.*LEGATION OF THE UNITED STATES,
Mexico, June 24, 1875.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 19th instant, in which you make reply to my note of the 8th of May last, wherein, under instructions from the Secretary of State of the United States, I communicated to your excellency the difficulties and opposition which the commissioner charged with the return of the Kickapoo and other Indians to their reservations had encountered in Mexico.

I will without delay transmit a copy of your excellency's note to the Department of State at Washington, for the information of my Government, and I embrace this opportunity to express my gratification that your government has issued new instructions to the governors of the States where these Indians are located, to remove any obstacle that may present itself whenever their removal is again attempted.

While I have no desire to enter in detail upon a discussion of your excellency's note, I deem it proper to make a brief reference to one or two of the points presented by you.

The Government of the United States has for many years made itself responsible for the support, education, and care of these Indians, whose guardian it is, and they had been placed on special reservations, and were under the supervision of the official agents and Army of the Government. During our late civil war the Indians took advantage of the temporary suspension of the authority of the United States to abandon their reservations, and they came into this republic without the consent and contrary to the policy of the government of Mexico, at a time when its power was also partially suspended by the war of European intervention. In view of this state of facts, I am constrained to express the opinion that your excellency's government has erred in deciding that it could not require these Indians to return to their reservations. Under the circumstances, they could only be considered as refugees from the authority of the Government of the United States, and, in the spirit of international comity, should have been again returned to the territory of the United States.

Your excellency seems to find the cause, if not a palliation, for the opposition manifested to the mission of the commissioner in the bitter language and harsh judgment of the newspapers of Texas against the inhabitants of the Mexican frontier. It is not strange that the public opinion of Texas is unfavorable to the justice and honesty of the Mexican authorities and people of the Rio Grande frontier, when it is remembered that the citizens of that State have been the prey for years of raiding bands of outlaws from Mexico; that they have witnessed the murder of their kindred, the burning of their homes, and the plunder of their property by organized bands of Mexicans, publicly reported to be instigated and equipped, many of them, by a general of the Mexican army; that these bands find a safe refuge and protection in Mexico, where their plunder is disposed of; and that no punishment is inflicted upon them by the authorities. It may not be unnatural that suggestions are prevalent in Texas of counter-invasions and reprisals; and in view of the inability or indifference of the federal government of Mexico, that there are found individuals, and even newspapers, which advocate the placing of that region under the authority of the United States.

Your excellency will please to receive the renewed assurances of my most distinguished consideration.

JOHN W. FOSTER.

No. 445.

Mr. Foster to Mr. Fish.

[Extract.]

No. 308.]

LEGATION OF THE UNITED STATES,
Mexico, June 26, 1875. (Received July 22.)

SIR: Referring to your dispatch No. 228, of the 20th ultimo, relating to the Mexican raids in Texas, I have the honor to report that I this morning called at the Mexican foreign office and had an interview with Mr. Lafragua, in conformity with the instructions contained in your

dispatch. As the conversation had a wider range than the specific topic presented by me, I deem it important to give you a somewhat extended report of the interview, in order to enable you the better to understand the political condition of this country and the embarrassments which surround the present administration. I referred to the receipt by you of my dispatches, in which I had communicated the assurances given by Mr. Lafragua of the disposition of the Mexican government to do all within its power to repress the Rio Grande border troubles, and to the satisfaction with which they had been received; but I stated that these assurances alone were not sufficient, in view of the fact that the maraudings from Mexican territory continued to be frequent, bold, and destructive, and caused much public excitement in Texas; that it was expected that more energetic measures would be used by the Mexican authorities. Mr. Lafragua said his government had done all that was possible up to the present; that it had issued stringent instructions to the authorities on that frontier, and had arrested several of the supposed raiders, as he had previously informed me, and that their trial was progressing. He had seen the report of the preliminary examination, the first stages of the trial, and that, while the suspicions of guilt were strong, he feared it might be difficult to obtain proof sufficient to convict them upon trial.

It may be proper for me to state in this connection that these prisoners have not been brought to this capital for trial, as your dispatch infers, but they were taken by the troops to Saltillo, the capital of the State of Coahuila, and, by order of General Escobedo, division commander, were placed on trial by a military commission; and he was about to administer to them summary punishment, when, by orders from the supreme government at this capital, he was instructed to suspend the military proceedings, as unwarranted by law, and to turn them over to the judicial authorities for civil trial.

Mr. Lafragua said the troubles on the border were an evil common to both sides; that raids occurred from Texas into Mexico as well, and referred to the reported assault of Texans recently on Cortina's hacienda, in the State of Tamaulipas. I asked him what information he had on the subject, when he replied, nothing but the newspaper reports; no official information had been received.

I then gave him the declaration contained in your dispatch, that no incursions had been made into Mexican territory from Texas, and that proof was challenged to the contrary. I asked him to furnish me with any information he might have to substantiate the statement which he had just made to me, as the Department at Washington was in possession of none such, and it was desirable that both governments should be informed as to the real situation. Mr. Lafragua promised to examine the data in his department and ask information of the governors of Tamaulipas and Coahuila, and advise me of the result. I remarked that I supposed your declaration referred to recent times and events, and may not have been intended to reach back for years; what both governments were concerned about was to punish the recent depredators and to repress the depredations for the future.

Mr. Lafragua said that your interview with Mr. Mariscal had been fully reported to him, and that the border troubles had been much discussed and considered by the President and cabinet; that it was apparently impossible to suppress the evil absolutely; that all that could be expected was to restrain and diminish it as much as possible; that the long line of coterminous territory made it impracticable to station an army along the whole extent of the frontier; and he asked me if I had any measures to suggest to remedy the disorder. I replied that I deemed it

quite feasible to adopt measures to so repress and diminish the raids as to make them lose importance and cease to be a cause of complaint. In the first place the locality of the troubles was not along the whole line of the extensive border of the two countries, but was mainly confined to the comparatively small portion of it between Matamoras and Laredo, on the Rio Grande; and that it was practicable to so garrison that region as almost entirely to put an end to the raids.

I then mentioned that it had been suggested to you that the Mexican government is embarrassed by the risk of desertions in sending troops to that quarter. Mr. Lafragua answered that this was one reason, but there were others. The situation of the country would not permit it, as the revolutionary state of affairs in Michoacan, the troubles on the Guatemala border, and the pending elections required troops at many and very distant points; and, besides, in the condition of the treasury the government could not afford to maintain a large army on the Rio Grande frontier. I replied that, if I understood him correctly, there were three reasons why his government was unable to maintain peace and restrain raids from Mexico into Texas: First, troops could not be sent to that quarter without fear of desertions; second, the internal troubles of the country rendered it impossible; and, third, in the state of the national treasury a sufficiently large force could not be maintained on the Rio Grande. I then stated that I was authorized to assure him that my Government had no information of any design for acquiring an extension of territory on that frontier, but the governor and citizens of Texas were clamorous in their demands upon the Federal Government for protection; and that the public press in the United States, in reporting these frequent incursions and depredations, was creating a strong public sentiment in favor of an aggressive and vigorous policy on the part of the Government. The acknowledgment of the inability of his government to restrain the lawlessness of its own citizens, as just made by him, would afford the strongest possible argument to whatever advocates of the acquisition of territory there might be in the United States.

Mr. Lafragua said the adoption of any such policy would be a greater evil than the present troubles. I replied that, however much both governments might regret it, in the light of such facts, with the continuance of the raids, the spirit of territorial acquisition could not fail to increase.

I then told him that, as he had asked me to propose a remedy for these evils, I would venture to do so.

I was not blind to the present political situation of Mexico, and felt that what he had stated as to the embarrassments which rendered it difficult for his government to put an end to the troubles on the border was, unfortunately, in a measure true. But it was in the power of the Government of the United States to provide a remedy, with the approval or consent of that of Mexico. I referred to the embarrassments under which the American Army on that frontier labored; that it either had no notice of the organization of raiding bands on the Mexican side of the river, or, if it had such notice, was powerless to disperse them; and that the bands were generally able to cross the river, avoid the posts, commit their depredations, and recross in safety before they could be overtaken by the troops, as the frontier-line was a barrier which afforded them complete protection. It is this barrier which renders the American Army in a great measure powerless to prevent or punish this outlawry.

The remedy which I would propose is permission for the regular troops of the United States to follow the raiders across the border when in close pursuit, or, what would be still more efficacious, permission to

temporarily occupy certain points on the Mexican side where the raiders are accustomed to cross the river. I was of the opinion that then the troubles would soon cease. But Mr. Lafragua said the executive has no authority to grant such permission without the consent of Congress, and it would not be prudent to ask for this consent; the sentiment of the country would not approve it; and he referred to the indignation occasioned by the passage into Mexican territory of General McKenzie. I replied that General McKenzie crossed without authority from either government; but, if permission was given, the necessity for it would be known to the public, and there would be no violation of national sovereignty, and good citizens ought to be satisfied.

* * * * *

I am, &c.,

JOHN W. FOSTER.

No. 446.

Mr. Foster to Mr. Fish.

No. 313.]

LEGATION OF THE UNITED STATES,
Mexico, July 12, 1875. (Received July 22.)

SIR: The official journal of the government, the *Diario Oficial*, of this afternoon, announces that General Juan N. Cortina was, on the 1st day of May last, ordered by the President to come to this capital and give a report of certain affairs on the northern frontier. The order was communicated by telegraph, and the general answered, asking for an extension of time when he should present himself, which was granted. This time having elapsed, the order was again sent to him, when he replied, tendering his resignation from the Mexican army. The President refused to accept the resignation, but again repeated the order, reserving the question of his resignation to be determined after compliance with the order. Having failed to obey, on the 18th ultimo his arrest was ordered, and on yesterday it was carried into execution, at the Union ranch, near Matamoras, in the State of Tamaulipas. The Mexican schooner Juarez sailed from Vera Cruz for Matamoras on yesterday to bring him to this city, where he will be placed upon trial for disobedience of orders.

This is the most decisive step yet taken by the Mexican government for the restoration of order on the Rio Grande border, and if it results in the permanent removal from that locality of Cortina and his punishment, I have no doubt it will have a salutary effect.

I am, &c.,

JOHN W. FOSTER.

No. 447.

Mr. Foster to Mr. Fish.

No. 317.]

LEGATION OF THE UNITED STATES,
Mexico, July 7, 1875. (Received July 22.)

SIR: On yesterday, in a visit which I made to the foreign office, I directed Mr. Lafragua's attention to the telegraphic reports, received

by the last steamer from the United States, of the continuance of trouble on the Rio Grande border in Texas, and of the re-enforcement of the United States Army and naval forces in that locality. I also called his attention to the fact that my Government had assigned the command of the Department of Texas to one of the most prudent and prominent generals of the Army; and that I deemed it very important that his Government should send to that frontier an officer of position and capacity, in the full confidence of his administration, and supported by a strong force of the federal army. If such a representation of the army and government was on the Mexican side of the Rio Grande, and in communication and co-operation with our troops, I was satisfied the border outlawry would soon cease. Mr. Lafragua conceded that my suggestion was entirely correct, but replied, as he has done on other occasions, that it was difficult for the government, in the disturbed condition of the country, to spare for that service either a prominent officer or a strong force of the army, but that it would meet the difficulty as far as it was possible. He said that he had confidence, however, that the arrest and removal of Cortina would have a great influence in diminishing the troubles; that, the leader being taken away, the outlaws would soon disperse and cease their depredations, and that peace would again be restored in that locality. I expressed to him my gratification at the arrest of Cortina, and stated that I had no doubt of its beneficial influence, especially if his removal was to be permanent; but that this act alone would not be sufficient to restrain the raids and plundering; that the border region could only be kept in order by the presence of a federal force under a prudent commander. Experience proved that the local authorities were, to a great extent, in sympathy with or overawed by the robbers, and their punishment could only be expected at the hands of federal officials under the direct orders of the supreme government. I remarked that should the depredations continue, and it should be apparent that no serious attempt was made by the Mexican authorities to restrain or punish the raiders, while I had no official information on the subject, a repetition of General McKenzie's course might be anticipated. Protection to the citizens of Texas must be afforded; if not given by the Mexican government, it would come from the United States. Mr. Lafragua made no direct response to this latter intimation, but stated that his government would at least see that there was a change of Mexican officials on the Rio Grande and the troops in that quarter re-enforced as soon as possible.

I am, &c.,

JOHN W. FOSTER.

No. 448.

Mr. Foster to Mr. Fish.

No. 320.]

LEGATION OF THE UNITED STATES,
Mexico, July 28, 1875. (Received August 13.)

SIR: The elections for senators and deputies of the new Congress, which convenes in September next, have passed off without any serious disturbances of public order. The administration of President Lerdo will have an overwhelming majority of supporters. In this city and very generally throughout the republic, except in two or three States

where there were double elections, the opposition, both of the church and liberal parties, took little or no part in the elections, alleging that it was useless to do so.

The revolutionists in Michoacan still maintain a guerrilla warfare, notwithstanding the efforts of the government to suppress them, and bands are reported in many other parts of the country. In this respect the condition of affairs has not improved since the date of my last dispatch on current events.

General Cortina has reached this city, and is under confinement in one of the public prisons.

I am, &c.,

JOHN W. FOSTER.

No. 449.

Mr. Foster to Mr. Fish.

No. 333.]

LEGATION OF THE UNITED STATES,
Mexico, September 22, 1875. (Received Oct. 12.)

SIR: The eighth national Congress convened in this capital on the 16th instant, and was opened with the customary address by the President of the Republic. I inclose herewith a copy and translation of the address.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 333.—Translation.]

Address of President Lerdo at the opening of the Eighth Congress, September 16, 1875.

[From "The Two Republics," Wednesday, September 22, 1875.]

Citizen Deputies and Senators:

For the first time under the political regimen established in 1857 the legislative power of the union comes to exercise its functions composed of two chambers. The institution of the senate completes our constitutional system, offering new hopes of prosperity, both because the equal representation of the States is now combined with the proportionate representation of the population, as also because the greater concentration of intelligence and the double discussion of the laws will make of the Federal Congress a fruitful center of prosperity for the republic.

This reform, initiated eight years ago, is now realized, after being considered by various Congresses, approved by the legislatures of the States, and sanctioned by all the requisites of the fundamental code. We may congratulate ourselves on this eloquent proof of the regular course of our institutions in which this highly important modification has been introduced, not as the result of an impassioned agency, nor still less by violence, but as the result of tranquil discussion and the enlightened conviction that the measure was for the public good.

Our relations with the friendly powers continue to be cordially and happily cultivated.

The necessary data are now collected upon which to base the project of a treaty of limits between Mexico and Guatemala, the conclusion of which will be sought with zeal, it being desirous to hasten to a satisfactory termination this subject, which, during half a century, has occupied the attention of both countries.

The re-establishment of the monarchy in Spain having been communicated to the executive, the representative of Mexico in Madrid has been newly accredited.

The work of the mixed commission established in Washington is nearly terminated, the decision in a few cases only being wanting, as also the resolution of the

arbitrator on several cases in which the commissioners were not agreed. At the early conclusion of this important business, it will be presented to Congress for its information.

The investigating commission in the States of Chihuahua and Sonora has terminated its labors satisfactorily, of which result the report has recently been made, which will soon be published.

Elections for magistrates of the supreme court of justice having been held in all the republic, the final declaration of Congress is only wanting to constitute that high tribunal complete.

Exercising the authorization conferred by Congress upon the executive, a law has been formed for the re-organization of the tribunals of the federal district. Its publication will be made in a short time, having been delayed because the code of proceedings in criminal matters should be issued at the same time, which project has been the object of certain amendments which were thought necessary in its careful revision.

The project of reform of the respective commission appointed in compliance with the law which ordered the revision of the code of civil proceedings will be sent to Congress at once.

Public instruction has continued to merit particular attention. Both in the primary and in the professional schools efforts have constantly been made to increase the elements of instruction, by establishing new professorships as well as providing all the instruments and other useful apparatus for practical teaching. With the same desire of obtaining the most perfect practical instruction, various pupils of the national schools have continued to be sent abroad when they have successfully concluded their studies.

The executive sent an initiative to Congress at its last session for the establishment of a normal school of teachers. This subject is very worthy to be recommended in order to meet the growing wants of primary instruction.

In the conservatory of music and declamation practical instruction in this last branch has been inaugurated, in order to encourage advancement in national art and dramatic literature. The executive has ordered a dramatic company to be subventioned, which is intrusted with the instruction and with placing on the stage the plays of Mexican dramatic authors, giving to these a part of the pecuniary benefits.

Notwithstanding certain difficulties, care has been taken to continue with regularity the ordinary payment of the civil and military lists.

On account of the imperious necessity of obtaining some increase in the receipts of the national treasury, in order not to neglect improvements of great interest and to meet the obligations of the administration, the executive, in the exercise of the authorizations of Congress, has ordered a time to be fixed when the reduction of ten per cent. in the tariff shall cease and the entire collection of the import-duties shall be made. In the last session of Congress the propriety of this measure had already been indicated, which has not been repugnant to public opinion, considering it as the most equitable and least onerous mode of obtaining additional resources.

According to the direction of Congress, more than \$200,000, which represents almost the total of the copper money in circulation in Sinaloa, has already been withdrawn from circulation. It is expected soon to be able to withdraw the rest of this money, which, on account of its depreciation in that State, occasioned serious injury to commerce and to all social interests.

The insurrectionary bands in the State of Michoacan, although they have not been entirely suppressed, having been favored by the rugged character of the country, have very notably diminished. A competent federal force constantly pursues them and frequently defeats them, it being expected that very soon order will be entirely restored in that State. It is also to be believed that the disturbances which have occurred in Nuevo Leon, on account of local questions, will soon disappear, with a happy termination to those difficulties.

The insurrection against the local government of Chiapas has been effectually resisted by that government. As a sufficient federal force was also sent immediately, it is certain that no element of disorder in that State can maintain itself.

In the rest of the republic the benefits of peace are enjoyed, solidly supported by public opinion, which, with the experience of former revolutions, condemns all disturbances of legal order.

It is gratifying to the executive to state to Congress that it has hardly made any use of the extraordinary faculties which were conceded to it. It has sought to duly reciprocate the confidence of Congress by abstaining from the use of them in so far as its own faculties were sufficient. Nevertheless, the concession of these extraordinary powers has not been fruitless, as it has prevented the revolts from being extended, and also because the simple fact of investing the government with all necessary power has restrained those who wished to create public disorder.

Without neglecting the other branches of the administration, the development of public improvements has been zealously sought, under the conviction that these will assure the peace, being the most efficacious element of social progress.

The contract has been renewed with the steamship company which is engaged in the traffic between certain of our ports on the Pacific, for the benefit of their commerce.

The new telegraph-lines are already finished from San Luis Potosi to Tampico, from Mexico to Vera Cruz, from Cuernavaca to Cuantla, and from Tepeji to Tula, in the State of Hidalgo. At the same time there is being actively prosecuted the construction of the telegraph-lines of Chihuahua, from Tabasco to Chiapas, and from San Luis to Durango.

The works of the ports of Frontera and Tabasco being well advanced, their conclusion should not long be delayed. The works on the mole at Mazatlan are also already commenced.

The construction of the railroad from Vera Cruz to Zamorana is completed, as likewise that of the railroad from Vera Cruz to Jalapa, which has been in operation since June. The construction of the railroad from Merida to Progreso is being actively continued, as also that of the wagon-road from Tehuacan to the capital of Oaxaca, so useful for communication with that important State.

For the Central Railroad the reconnaissance and the plans of more than two hundred kilometers have been finished, that which embraces the entire route from Mexico to Queretaro. It is to be expected, within the time fixed by the law of the concession, this work, so beneficial to the States of the interior, will be realized.

“Citizen deputies and senators: You come to devote your enlightened attention to many subjects of real social importance. The patriotism and wisdom of the Eighth Constitutional Congress will be such that the period of its high mission will be fruitful for the well-being and prosperity of the republic.

No. 450.

Mr. Foster to Mr. Fish.

No. 334.]

LEGATION OF THE UNITED STATES,
Mexico, September 23, 1875. (Received Oct. 12.)

SIR: In my dispatch No. 298 I referred to the differences which had arisen between the federal, judicial, and executive powers of this government.

Since that date they seem rather to have increased and possibly assumed a somewhat acrimonious character. In a case of no greater importance than that involving the rightful possession of the clerkship of a district court, the supreme court and the president have caused official publications to be made, which reveal a great want of harmony and cordiality between these co-ordinate branches of the federal government, and which, unfortunately, has a tendency to increase rather than allay the general feeling of discontent now prevalent in the country.

A secretary or clerk of the district court of Oaxaca having been temporarily assigned to the position of judge of the same court, the President appointed a new secretary of the court. Upon a new judge being appointed, the former secretary claimed the right to return to the office of secretary, and this right not being recognized by the judge, or actual incumbent of the secretaryship, the former appealed to the supreme court, which decided him the legal secretary, of which decision the President was informed through the department of justice. The judge of the district court failed to enforce the decision, and the department of justice responded that the former secretary, by exercising the functions of judge, had tacitly or impliedly resigned the office of secretary, and that the new appointment of a secretary was regular and legal. Whereupon the supreme court prepared and published a lengthy statement of the case, concluding with the following paragraphs:

8th. That a matter adjudicated merits the greatest respect in all parts of the civilized world, because it is a reality; and for this reason an eminent statesman has said: “The lost nations, upon losing all hope in everything, are accustomed to resort to these

pernicious ends, that the condemned may be restored *in integrum*; that the imprisoned may be set free; that exiles may return to their country, and that matters adjudicated may be rescinded. And that when these things take place all understand that the republic is ruined, and no one believes that there remains any hope of salvation."

9th. That the supreme court of justice, in the present case, has no other medium of enforcing its decision of the 28th of last July than the moral authority with which it is vested by the constitution, which authority is not recognized by the executive power; because it would be an act of insanity to ask the President of the republic for the aid of force to be used against the same President to compel him to comply with a supreme decision of federal justice.

In virtue of these considerations, the court declares that it yields to superior force, leaving unexecuted its supreme decision of the 28th of July, 1875, which declared existing the appointment of proprietary secretary of the district court of Oaxaca, made in the person of the citizen Rodolfo Sandoval on the 2d of May, 1872.

To the statement of the supreme court, from which the above is extracted, the president, through the minister of justice, replied in a communication addressed to the court, and which was published in the official journal on the 21st instant. Omitting the greater portion of this reply, I quote the conclusion, as follows:

The foregoing explanations exclude all ground for the affirmation of your supreme tribunal that the decisions of this department are contradictory, and that the secretary of a district court has been deprived of his appointment; for, far from being so, all that has been decided upon by this department is in every respect legal and reasonable.

What has been stated appears sufficient to fix with exactness the facts relative to the matter under discussion, since it is immaterial to take into consideration the other incidents and quotations from authors which your supreme tribunal recorded in your note, as they are altogether irrelevant in the settlement of a matter of this nature.

Which, by direction of the citizen President, I have the honor to say to you in the respectful terms which I consider due in the intercourse between public powers.

At the general election which was held in July last four new members of the supreme court were chosen to fill vacancies now existing in that tribunal. These members will take their seats at an early day; and as they are understood to be friends of the administration, it is probable their presence in the court may prevent further disagreement between the two departments of the government.

I am, &c.,

JOHN W. FOSTER.

No. 451.

Mr. Foster to Mr. Fish.

No. 335.]

LEGATION OF THE UNITED STATES,
Mexico, September 27, 1875. (Received October 12.)

SIR: Since the date of my last dispatch on current events, local revolutions and armed disturbances of public order have been more numerous and frequent than in any previous period during the administration of President Lerdo.

During the month of June a revolution occurred in the territory of Lower California, which grew out of opposition to the governor, Davalos. The revolutionists were for a time completely successful, occupying the capital, La Paz, imprisoning the governor, who was afterward released upon the payment of a ransom and sent out of the territory, and possessing themselves of the public offices and authority. As illustrating the manner in which these petty revolutions are conducted, and the injuries which they inflict upon commercial and industrial enterprises,

I inclose herewith a copy of one of the reports made by the consul at La Paz upon these occurrences. The federal government having sent to La Paz a detachment of the army from the port of Mazatlan, the revolution was readily suppressed, and a new governor appointed, who has restored the territory to order. A portion of the revolutionists seized a vessel and sailed from Magdalena Bay for the State of Sinaloa, where they are reported as having joined the bandits in the mountains.

In July one Escobar raised the standard of revolt against the governor of Chiapas, the most southeastern State of the republic, and adjoining Guatemala, and, with a few hundred men, attacked and defeated the State troops, and drove the governor out of San Cristobal, the capital. The governor called upon the President for federal aid, and national troops were ordered, both from Tabasco and Oaxaca, to his relief, but before their arrival he was able to collect a sufficient State force to drive out the insurgents and reoccupy the capital. The latest advices are that they have all been defeated, and the small remaining band is reported to have taken refuge in Guatemala.

During the last and present month an armed conflict has been carried on in the State of Nueva Leon between two rival claimants for the office of governor. A number of engagements in the open field have occurred, and the controversy began to assume quite a warlike footing, several thousand men being reported as under arms, when General Fuero, federal commander on the Rio Grande frontier, under instructions from the President, proclaimed martial law in the State, assumed control himself of all civil as well as military affairs, and disarmed the contending factions. The President has reported his action to Congress, stating that General Fuero will remain in charge of civil affairs only until that body shall provide for the restoration of the civil authority and the preservation of peace through that medium.

The insurrection against the general government still continues in the State of Michoacan, but important successes are reported by the commander of the federal troops. On the other hand, the opposition insist that the revolt is gaining strength and is extending to the adjoining States. It is known that there are considerable bands of pronunciados in the States of Jalisco and Guerrero, and smaller ones in Guanajuato, Mexico, and Morelos; but everywhere they are compelled to keep to the mountains, and do not dare to meet the government forces in the open field. They are, however, a great source of annoyance to the towns, haciendas, (plantations,) and travelers in the infested regions, levying upon these forced loans of money and provisions, and plundering them of arms and valuables. Troubles are also reported in the States of Sonora, Sinaloa, and Chihuahua, but up to date are not confirmed through official sources.

The disorders in Lower California, Chiapas, and Nuevo Leon have been of a local character, directed against the State governments, and expressly disavowing opposition to the federal authority. Their effect upon the country has, however, been unfavorable, as they create the impression that there exists a general spirit of discontent and revolt. Unfortunately for the public peace, the crops for the current year are proving partial failures in many sections, creating a great scarcity of food, which, added to the prevailing stagnation of business, has a tendency to swell the guerrilla and robber bands; so that the task at present imposed upon the federal and local authorities of enforcing order and a reasonable degree of security is by no means an easy one.

In order to meet an anticipated deficit in the national treasury, the President, in the exercise of his extraordinary faculties, has decreed an

increase of ten per cent. in the import duties; or rather has ordered a discontinuance of the discount of ten per cent. on the existing tariff heretofore in practice. The consul-general will communicate to the Department a copy of the decree.

The revolt in Chiapas, and the alleged aid which it received from citizens of Guatemala, has led to a discussion in the public press of the unsettled relations with that republic, mainly growing out of the boundary question. The general expression has been that an early settlement of this long pending matter is highly desirable for both nations. President Lerdo, in his recent address to Congress, states that it is receiving the earnest attention of the government.

The anniversaries of the battles of Churubusco, Molino del Rey, and Chapultepec, in 1847, were observed as on previous years, the President and cabinet and many other public men participating therein.

During the past year this government has been having constructed in England four gunboats as coast-guards, both for naval and revenue service. Two of these, the *Independencia* and *Libertad*, carrying respectively six and five guns, have arrived in the harbor of Vera Cruz, and will be employed along the Gulf coast. The two others have sailed from England, and are now *en route* for Acapulco, and will be stationed on the Pacific coast.

The new Congress, which, under the recent organization, is composed of a senate and chamber of deputies, convened on the 16th instant, and was opened by an address from the President, a copy of which is transmitted in a separate dispatch. Much interest and feeling has been caused by the action of Congress in rejecting the credentials of the majority of the deputies, representing the State or anti-administration party, from Jalisco, and giving the seats to the administration members, and also in rejecting the senators whose credentials were declared to be legal and correct by the State legislature, as the law for the senate provides. The rejected members announce that they will apply to the federal supreme court to compel a recognition of their credentials by Congress. One of the rejected senators, Señor Vallarte, has just retired from the office of governor of the State, which he has occupied for the past four years; was a member of President Juarez's cabinet, and has rendered important services to the country. Jalisco, the most important state of the republic, has been for some time past recognized as an anti-administration State, and this action of Congress is likely to imbitter its hostility to the present executive.

The difference between the supreme court and the President, to which reference has been made in previous dispatches, still continues, and is made the subject of a separate dispatch.

I am, &c.,

JOHN W. FOSTER.

[Inclosure in No. 335.]

Mr. Turner to Mr. Skilton,

UNITED STATES CONSULATE,
La Paz, June 25, 1875.

SIR: Referring to my dispatch of the 3d instant, I now continue an account of the progress of the revolution. On the 5th instant all the federal officers and many of the prominent men of the town left for Mazatlan, leaving the town in the hands of the revolutionists, and without custom-house, courts, or any public officers.

On the 7th instant the bishop residing in this place went to Triunfo to endeavor to

rescue Governor Davalos from the hands of the revolutionists, and on the 9th a settlement was effected, a copy of which, with a copy of the "plan" of the revolutionists, I transmit herewith.

On the 17th instant all the prominent merchants were called to the government-house, and when these were notified that money was wanted in sums from \$500 to \$4,000, varying according to the financial standing of the individuals. They all refused to pay, and were immediately confined, without water or food, until they should come to terms. Before midnight all of them had effected a settlement by promising to pay, but all obtained a considerable reduction from the amount first demanded.

On the same afternoon, Governor Davalos was brought to La Paz and placed in the bishop's house, under a strong guard, and on the 18th instant a proposition was made to him that he should pay \$10,000 and be sent out of the territory.

This amount he refused to pay, and some of the most influential men of the town, including the bishop and priests, interceded in his behalf. After a great deal of haggling, on the 19th instant his friends paid \$3,000, and he was put on board a small sloop and sent to Altata, in the State of Sinaloa, there to be set at liberty.

Great difficulty was experienced in raising this small amount, as the town is completely stripped of money by the forced contributions.

Up to this time no battle has occurred, except a slight skirmish at San Antonio on the 16th instant, in which no one was killed, and but three wounded.

At the commencement of the trouble, I called on the acting governor, Mr. E. Rivas, to ascertain his intentions with regard to Americans. He assured me that no Americans should be molested, either in person or property, and so far, I am happy to say, he has kept his word strictly, or at least I have not heard that the person or property of any American has suffered in the least.

Some little excesses have been committed by single soldiers, but I am satisfied that the leaders have done their best to maintain order, and they have succeeded far better than we had reason to expect they could do.

There is a small force of government troops at San José del Cabo, and it is reported that Tharra is now on the march to attack them.

Business here is almost entirely suspended, many of the stores are closed, and a good portion of the population have secreted themselves, left the country, or been forced to join the revolutionary forces.

We are now hourly expecting the arrival of the government troops from Mazatlan. I do not expect the revolutionists will make any resistance, and presume that affairs will return to their normal condition immediately upon their arrival.

As far as I can ascertain, the amount of cash collected by the revolutionists here in Triunfo, and in other places, reaches \$23,000; and, besides, they have taken all the arms, about one hundred horses and mules, and all the saddles they could lay their hands on.

The steamer from San Francisco, which was due on the 16th instant, did not touch, and no one can tell when our communications with the outside world will be re-opened.

JUNE 26.—Here my writing was interrupted by a new revolution, which took place at 3.30 p. m. yesterday. It seems that thirty or forty men, sympathizing with the government, have for some time been lurking in the outskirts of the town, and were in communication with the guard at the government-house, which consisted principally of pressed men. Watching a favorable opportunity, they rushed upon and made prisoners of the revolutionists in the house, including the acting governor, Mr. Rivas. But one man was killed. They got together about sixty men, seized a schooner, and during the night sailed for San José, there to join the government troops, and this morning the town seems entirely deserted.

To-day the old *ayuntamiento* will resume its functions, and, I presume, will be able to raise among the merchants a sufficient guard to maintain order.

I am, sir, your obedient servant,

D. TURNER.

JULIUS A. SKILTON, Esq.,
United States Consul-General, Mexico.

No. 452.

Mr. Mariscal to Mr. Fish.

[Translation.]

LEGATION OF MEXICO,
Washington, January 30, 1875. (Received January 30.)

MR. SECRETARY: Toward the close of the years 1873 and 1874 an unusual number of crimes and outrages of all kinds were committed

against Mexicans in the State of Texas by inhabitants of that State, the perpetrators thereof, in the great majority of cases, remaining unpunished, either through powerlessness on the part of the authorities of that State or from some other cause still more to be lamented. At the commencement of the period to which I refer, I began to receive information of what was taking place on the Mexican frontier, together with appeals urging me to complain to the Government of the United States. I was unwilling to do this, however, until I should have received proper proof of each outrage, and until all legal resources for the punishment of the criminals should have been exhausted, or until I should be reasonably convinced that all efforts to this end were absolutely unavailing. I confined myself to counseling moderation and prudence in the midst of the excitement prevailing among the Mexican population of those regions, and I said that every effort must be made to secure a remedy from the local and State authorities before appealing to the government of Mexico for diplomatic action.

This is certainly required by the principles of international law. I think, however, that I have observed them in this matter with a scrupulousness which, at first sight, might seem carried too far, if at least we consider the conduct of the government of Texas, which has been notoriously hostile to the Mexicans, as has been shown by a series of acts, and even by official documents known to the public. Meanwhile, except in a few brief conversations with you, Mr. Secretary, and with Mr. Cadwalader, I have avoided troubling the Government of the United States with reference to this grave situation. Now, however, I find myself obliged to do so, in a particular case of a horrible character, as are others which I shall perhaps present hereafter.

With regard to this matter, a formal complaint has been made to my government, which, that I may solicit due reparation, has sent me the documentary evidence (folios 35 and 13) which I have the honor to transmit with the present note. By this evidence the following is shown :

Don Toribio Lozano is a Mexican, residing at Aguafria, in the State of Nuevo Leon, who has owned a rancho or stock-farm in Nueces, Texas, since 1861. He has always kept a considerable number of sheep and goats there, under the charge of shepherds, who were likewise Mexicans, hired at the place where he resided. Thence, he took them to his rancho, which he himself only visited occasionally, for which reason he selected the most honest men as his shepherds that he could obtain. Early in December, 1873, Lozano received a telegram from Corpus Christi informing him that seven of his shepherds had been hung, (it was not stated by whom,) and that the rest had been frightened away, leaving the rancho and the animals without any guard, for which reason the animals had become scattered and lost. Lozano naturally at once repaired in all haste to the scene of the outrage, and, abandoning his affairs at Aguafria, took several men with him as an escort. This precaution was necessary because, after the commission of the crime, the magistrate at San Diego, a town near the place where the crime was committed, absented himself from the district for several days, and utter disorder reigned there.

The hanging of the seven shepherds took place on the 28th of November; and it was not until the 5th of December that an inquest on the bodies was held by the coroner's jury, by reason, as was alleged, of an Indian invasion, which took place after the commission of the crime, and did not extend, as it appears, to the place where it was committed. The perpetrators of those seven homicides, according to common report, and the testimony of a boy who escaped from the massacre, were persons

from Dogtown and Stone Bridge; it frequently happening, as is averred by Lozano's witnesses, that parties of land-owners and other residents of Texas are organized for the purpose of killing shepherds, who are accused of the crime of stealing and skinning cattle, in order to sell their hides. These witnesses, moreover, declared that, in spite of such savage devastation of thefts of this kind among those Texans, their authorities do not punish, and even expressly permit, the free sale of the hides which may have been thus stolen, and in this manner encourage a crime which they afterward punish in a manner as illegal as it is barbarous. The victims of this atrocious system are usually Mexicans, who, through blindness or interested motives, are made the scape-goats of the criminals.

In this manner, and in others arising from the same cruel prejudice, I am informed that many unfortunate Mexicans have been put to death, whose relatives, through ignorance, terror, or some other cause, do not take the necessary steps to obtain redress.

Returning to the matter which now occupies me, I will observe that, notwithstanding the indications which pointed to the real criminals, since the companions of Lozano even observed the tracks of their horses, which had evidently gone to the aforementioned towns, notwithstanding that this crime had evidently been committed by many persons, and that it must have left many vestiges, it has been said there is no means of discovering the murderers. This is the only result obtained by the Mexican consuls residing at Brownsville and San Antonio, who have earnestly solicited from the proper officers of justice in Texas that the crime to which I refer might be inquired into and punished. Nothing serious seems to have been done looking to such an investigation, as if the power or the will to make the investigation were lacking, or as if the criminals were feared, as may be suspected in the case of the magistrate at San Diego, when he absented himself from the district after the commission of the crime, before he could have been alarmed by the alleged invasion of Indians.

These, Mr. Secretary, are not isolated presumptions that no attempt has been made in Texas to punish the crime to which I allude on the ground that such punishment is impossible, but they are confirmed by the irrecusable opinion of the governor of that State. When the Mexican consul at San Antonio addressed a polite note, dated February 6, to Governor Coke, calling his attention to the case, the governor replied three months afterward (May 8) by a communication of which I have the honor to inclose a copy, (folio 35.) The original, in the governor's handwriting, is in my possession. In that remarkable reply the governor admits that "lawlessness prevails to a great extent in the western and border counties," and that "in some degree it cannot be reached by the regular authorities," adding "this state of things results necessarily in a measure from our form of government."

He states, however, (and indeed with reason,) that that does not justify the murderers of the Mexicans, and as a means of avoiding crimes of this kind, which he calls *inflictions*, he advises herdsmen not to enter the State of Texas, or, if they do so, to be very scrupulous in their respect for property, which he says he is informed they have not always been. After such declarations from the executive of Texas, which reveal not only the powerlessness of the authorities, whether real or arising from prejudice, (which amounts to the same thing,) but also the prejudice which exists against Mexican herdsmen, it seemed useless to continue to take measures for the obtainment of justice, although the governor says, in conclusion, by way of encouraging the hope which he had already extinguished, that he would ask for an investigation of the

crime, and for the punishment of the guilty parties. Nevertheless efforts have been made to secure the enforcement of the law in this scandalous case. Nothing, however, has been obtained, as I have already remarked; nothing has been done by the authorities in the case; and recognizing, perhaps, its powerlessness to repress outrages against Mexican stockmen, in accordance with the opinion of the governor in regard to the best means of avoiding them, the legislature passed a law, on the 2d of May last, expelling, by implication, cattle belonging to Mexicans from Texas, under penalty of confiscation if found elsewhere than on land belonging to their owners.

The execution of this law within a limited period could not fail to do much injury. The governor was also authorized to raise two companies of volunteers for the preservation of order in Nueces and Duval Counties; and those companies have been a most terrible scourge to the Mexican population, among whom they have committed all manner of outrages, and even murders, to which I shall probably have to refer in various notes.

I beg you, Mr. Secretary, to excuse me for alluding, on presenting this complaint for a single case, although in a general way, to various others in which Mexicans have been badly treated in Texas, because I consider that this allusion is useful to throw light upon a question which may now arise. This is, whether there is evidence or not that there has been a denial of justice since the commission of the crime has been well proved. In my opinion, it is also proved that there has been such denial of justice, not only because during the two years that have elapsed the criminals have not been punished, nor have any decided measures been taken for their detection, but because the prevalence of lawlessness and the inertness or powerlessness of the authorities near the scene of the crime are plainly shown by a multitude of facts, and have been recognized by the executive of the State. The excuses made by the governor, for this state of things, and the cause to which he attributes them, are, I think, quite unworthy of discussion. So long as that portion of Texas is not formally declared to be in a state of civil war or insurrection, the government of that State cannot avoid responsibility by alleging inability to fulfill its obligations.

It being in vain, as I have already remarked, to expect any redress from the State of Texas, my government thinks that the petition of Lozano, a copy of which is inclosed, asking for an indemnity from the Government of the United States, is just and well founded. The claim presented by him amounts to twenty-eight thousand two hundred and twenty-one dollars, and seems by no means exaggerated. Therefore, if this sum should be granted to him, with interest at six per cent. per annum until its payment, this would be, according to my view of the case, in accordance with the plainest principles of equity. As to the indemnity for the families of the shepherds, which is likewise solicited by Lozano, he being duly authorized to do so, I think it should be fixed at twenty thousand dollars for each one; and for this there would be no lack of precedents, to which I think it now unnecessary to refer.

In conclusion, Mr. Secretary, allow me to express the hope that the Government of the United States will receive this request from the government of Mexico in favor of these unfortunate men in the spirit of equity and justice which is always expected as a model in the high functionaries of this republic.

I have the honor, &c.,

IGNO. MARISCAL.

[Inclosure 1.—Translation.]

FOLIO 35.—DOCUMENTARY EVIDENCE IN THE CASE OF THE MURDERED SHEPHERDS.

To the Citizen Minister of Foreign Relations :

I, Toribio Lozano, a resident of Agnafria, in this State of Nuevo Leon, respectfully state that, having kept my sheep and goats in Texas, for breeding purposes, since the year 1861, I suffered a great disaster last year by the causeless murder of almost all my shepherds, losing in consequence thereof a large number of my animals. As these unjustifiable acts are due to negligence on the part of the authorities, who have declared Mexicans to be outside of the pale of the law of nations, I have here caused a formal statement thereof to be made, setting forth, at the same time, my just claims for indemnity. The same has been done by the relatives of the murdered shepherds. I send you the original documents relating to both matters, in order that the rights of the sufferers may be properly asserted.

The outrages which I have suffered are well known, as are many others suffered by Mexican citizens residing in Texas. The press of that State has referred to them at length, especially to my own case. It has unanimously condemned these acts of violence, but no steps have been taken for redress, and no measures have been adopted for their prevention in future. This conduct has forced our consul at San Antonio to address the present governor of Texas, from whom nothing has been obtained, save the declaration of his powerlessness to repress and punish them, and, I grieve to say, the outspoken assertion that Mexicans ought not to reside in Texas. If proofs were wanting in regard to the direct participation of those authorities in the commission of the horrible acts of which I complain, this alone would furnish sufficient ground upon which to base their responsibility. The journalists of the said State of Texas, taking this view of the matter, raised their voice against the barbarous policy of that functionary, and sustained my rights and the rights of those whose situation was similar to mine, as I prove by one of the numerous articles which have recently been published.

As you will see by my complaint, I only claim indemnity for those losses which I am able to prove; and I have abstained from all exaggeration, preferring any loss rather than to have any of the items presented by me rejected; among these items there is not one for any of the amounts given by me in charity to the widows and orphans of those who died while taking care of my interests.

The reading of the documents which I inclose will give a complete idea of the justice of my case, and I therefore omit useless explanations, confining myself to urging you to seek to secure, as promptly as possible, the just indemnity which is my due, and at the same time an indemnity for the families of the victims.

I beg that you will report this matter to the citizen President, and that you will be pleased, in conjunction with him, to take such measures as you may deem most suitable for the obtainment of full reparation from the American Government for all losses suffered. This is justice.

TORIBIO LOZANO.

MONTEREY, *October 30, 1874.*

DISTRICT COURT OF THE STATE OF NUEVO LEON,
Monterey, 1874.

- Deposition of witnesses solicited by the citizen Toribio Lozano for the purpose of presenting a claim to the United States of America for losses suffered in Texas.
August 6. The citizen licentiate Valdez Gomez, judge.

P. BORREGO, *Secretary.*

Telegraph-line of the supreme government.

[Telegram, sent via Matamoras, December 4. Received at Monterey December 4, 1873, at 20 minutes past 4 o'clock in the afternoon.]

CORPUS CHRISTI.

Messrs. ZAMBO BROTHERS: Please inform Don Toribio Lozano of the following at once: A great disaster to his men and flocks; seven shepherds killed; the rest not yet found; animals all lost.

DIONISIO G. RAMIREZ.

Proceedings of an inquest held on the bodies of Filomeno Rios, Epifaneo Rios, Vicente Garcia, Jorge Rodriguez, José Maria, Leonardo Garza, and Blas Mata, shepherds in the employ of Don Toribio Lozano, of Aguafria, Nuevo Leon, Mexico, found dead at La Chuza, Duval County, Tex., on the 29th of November, A. D. 1873.

(On account of the Indian troubles was unable to proceed to the spot until the 5th day of December, A. D. 1873.)

The following jurors were impaneled and sworn, viz: Calixtro Tovar, Alonso Allen, T. A. Shaw, Owen Sinnott, D. G. Ramirez, and Francisco G. Flores.

On examination, the bodies were found hanging to trees in a creek, about one mile off a sheep-pen fronting La Chuza, and within a distance of twenty yards of each other. The brothers Filomeno and Epitacio Rios were hanging on one limb, and Jorge Rodriguez on another limb of the same tree; Blas Mata on a tree about 6 feet from Jorge Rodriguez; Leonardo Garza to a tree about twenty yards from the Rios brothers; Vicente Garcia on a tree about four yards in front of Leonardo Garza; and José Maria about half-way between the Rios brothers and Leonardo Garza. Some of them had their hands tied with what is called granny knots. The trail of horses, twelve or more, was found going in the direction of the Nueces River. The hats and blankets of the victims were laying near them, and the ropes with which they were hung was quarter-inch, commonly used for coping sheep and goats. The process of strangulation undoubtedly caused their death, and, from the appearance of the bodies, they had been hanging several days.

First witness, Miguel Martinez, being duly sworn, says that, on the 29th of November, 1873, Encarnacion Garcia Garza sent me to the Chuza, in Duval County, to see if it was true that the shepherds of Toribio Lozano were hung. I got to the Chuza at midnight, and went with a shepherd named Desiderio to where the bodies were. I examined the bodies with matches to see if they had wounds, and I did not see any cause for their death except that they were hung. I found seven bodies hanging.

his
MIGUEL + MARTINEZ.
mark.

Sworn and subscribed to before me.

JAMES O. LUBY,
Justice of the Peace, Precinct No. 3, Nueces County.

We, the undersigned jurors, find that the bodies of Filomeno Rios, Epifaneo Rios, Vicente Garcia, Jorge Rodriguez, Leonardo Garza, José Maria, and Blas Mata were found hung to trees by parties unknown, some with their hands tied behind and some before, their bodies not appearing shot or stabbed.

CALIXTO TOVAR, *Foreman.*
ALONZO ALLEN.
T. A. SHAW.
OWEN SINNOTT.
D. G. RAMIREZ.
FRANCISCO G. FLORES.

LA CHUZA, December 8, 1873.

Attest:

JAMES O. LUBY,
Justice of the Peace, Precinct No. 3, Nueces County, Acting Coroner.

INDORSED.

Proceedings of an inquest held on the bodies of Filomeno Rios, Epifaneo Rios, Jorge Rodriguez, José Maria, Leonardo Garza, Vicente Garcia, and Blas Mata, December 6, 1873, at La Chuza, Duval County.

JAMES O. LUBY,
Justice of the Peace, Precinct No. 3, Nueces County, Acting Coroner.

Filed January 28, A. D. 1874.

JOSEPH FITZSIMMONS,
Clerk District Court, Nueces County.

THE STATE OF TEXAS, *County of Nueces, ss:*

I, Joseph Fitzsimmons, clerk of the district court in and for said Nueces County, and legal custodian of the records thereof, hereby certify that the foregoing three pages

contain a true and correct copy of the proceedings and report of the coroner's inquest on the bodies of the seven shepherds found hung at the Rancho La Chuza, in Duval County, on the 29th November, A. D. 1873, as the same appears in the original report of said inquest filed in office of the clerk of the district court of said county on the 28th day of January, A. D. 1874.

Witness my hand and the impress of my official seal at office in Corpus Christi this 12th day of May, A. D. 1874.

JOSEPH FITZSIMMONS,
Clerk District Court, Nueces County.
 By PATRICK McDONNEGH,
Deputy, District Court of Nueces County, Texas.

Certified copy of inquest on bodies of seven shepherds found hung at Rancho La Chuza, December 6, 1873, Duval County.

Filed January 28, A. D. 1874.

JOSEPH FITZSIMMONS,
Clerk District Court, Nueces County.

CARRIZO, TEX., February 9, 1874.

Received from Don Toribio Lozano the sum of sixty-five dollars (\$65) specie, in part payment of one hundred and twenty-five (\$125) dollars, being the amount of inspection-fees due on 800 head of sheep and goats.

Balance due, \$60.

JOSHUA ARMSTRONG,
Inspector Hides and Animals, Zapata County.

TAX RECEIPT.

\$69 22
 19 35

 88 57

Received of Toribio Losano the sum of sixty-nine $\frac{25}{100}$ dollars, the State and county taxes for 1873 on his property, including the following-described real estate:

| A. b. No. | Acres. | Original grantee. | County. |
|---------------------------------|--------|---|---|
| Also | | Nineteen $\frac{35}{100}$ dollars school-tax. | County. |
| This 1st day of December, 1873. | | | JOHN McCLANE, <i>Sheriff of Nueces County.</i> |

TAX RECEIPT.

\$10 95
 2 70

 13 65

Received of Pablo Garza the sum of ten $\frac{70}{100}$ dollars, the State and county taxes for the year 1873 on his property, including the following-described real estate:

| A. b. No. | Acres. | Original grantee. | County. |
|---------------------------------|--------|--|---|
| Also | | Two $\frac{70}{100}$ dollars school-tax. | County. |
| This 1st day of December, 1873. | | | JOHN McCLANE, <i>Sheriff of Nueces County.</i> |

TAX RECEIPT.

\$33 45
9 13

42 58

Received of Antonio Lozano the sum of thirty-three $\frac{45}{100}$ dollars, the State and county taxes, for the year 1873, on his property, including the following-described real estate:

| A. b. No. | Acres. | Original grantees. | County. |
|---|--------|---|---------|
| Also | | Nine $\frac{45}{100}$ dollars school-tax. | County. |
| This 1st day of December, 1873. | | | |
| JOHN McCLANE. <i>Sheriff of Nueces County.</i> | | | |

OFFICE OF INSPECTOR OF HIDES AND ANIMALS,
Zapata County, Texas.

This is to certify that I have this day inspected, in possession of Toribio Lozano, eight thousand (8,000) head of sheep and goats, of his own property, marked as follows:



In testimony of which said inspection I extend this certificate of protection, verify, ing the same by my signature hereto subscribed and officially hereto attached at office in Carrizo, the 9th day of February, A. D. 1874.

JOSHUA ARMSTRONG,
Inspector of Hides and Animals, Zapata County, Texas.

CONSTITUTIONAL COURT OF SAN FRANCISCO DE APODACA.

I, the citizen Lazaro Guajardo, first constitutional alcalde of Apodaca, hereby certify, as far as I can, and as far as the law allows, that the citizen Toribio Lozano, of this town of Aguafría, has presented before me, in the office under my charge, a book of accounts, which I certify to have seen, and which contains his accounts with the hired men in his employ, among them being that of Filomeno Rios, who owes him \$140.49; that of Jorge Rodriguez, who owes him \$216.13; that of José Ma Reina, who owes him \$65.39; that of Leonard Garza, who owes him \$77.20; that of Epifaneo Rios, who owes him \$75.17; that of Vicente Garcia, who owes him \$67.23; that of Blas Mata, who owes him \$43.13; which accounts having been carefully examined are found to have been kept in accordance with law, without any error, up to the 28th of November, 1873, at which time he ceased to keep them on account of the death of the persons in question.

And at the request of the said Mr. Lozano, and for such purposes as may be necessary, I issue the present certificate to him, at Apodaca, July 30, 1874. I certify.

LAZARO GUAJARDO.
HESQUIO GARZA, *Secretary.*

To the Citizen District Judge:

I, Toribio Lozano, a resident of Aguafría, and a Mexican citizen, appear before you, stating that in the year 1861 I took my sheep and goats to Texas for the purpose of selling them, because it was difficult to carry on that business here on account of the repeated incursions of the Indians. The southern revolution having broken out while I was in Texas with my animals, it was difficult for me to return. Wherefore, I left my property at the rancho in San Diego, Nueces County, for breeding purposes. Although I did not remain in Texas myself, I left ten or twelve men there, whom I sent from Aguafría, and whom I was obliged to select from among the most honest people that I could find, since I was obliged to confide my property to them, and since I visited the rancho under their charge only once or twice a year.

During this time, with the exception of some deaths among the shepherds, and some destruction of animals caused by the Comanche Indians, I suffered no loss of property until November 28, 1873, when a band of stock-raisers from Dogtown and Stonebridge, having been organized, attacked seven of my shepherds while engaged in the regular performance of their duties, and hung them, frightening away the rest, who did not return to the scene of the disaster until seven days afterwards. Not to speak of the horrible nature of the outrage committed upon innocent persons, the losses caused me thereby have been enormous, and, as I believe that they are due to culpable negligence on the part of the Texan authorities and those of the United States in the fulfillment of their duties, I propose to furnish evidence thereof in order to ask redress for the same, in due form, through my government.

From the certificate which I inclose, and which was given to me by one of the authorities of San Diego, it appears that my shepherds were killed on the 28th or 29th of November; that their bodies remained suspended from trees until the 5th of the following month, because the authorities and inhabitants of San Diego had fled on account of an incursion of Comanche or other Indians inhabiting the territory of the United States; that Filomeno and Epifaneo Rios, brothers, and Vicente Garcia, Jorge Rodriguez, José Ma Reina, Leonardo Garza, and Blas Mata were the persons put to death by strangulation, they having been first tied and then hung from a tree; that the perpetrators of the murder of seven honest and peaceful persons were twelve or fourteen men, as appears from the tracks of their horses, which had gone in the direction of the Nueces River from the Chuzza ranch, where the crime was committed, information thereof having been given by the citizen Incarnacion G. Garza.

From these proceedings of the jurors of Nueces County, it appears that they confined themselves to stating the fact of the commission of the crime, but that they did nothing in order to stone the criminals, to whom common report points as residents of Dogtown and Stonebridge, and that they did nothing to vindicate an outraged community or to procure redress for the enormous damage done.

If this arose from the fact that the action of the authorities was impeded, while the crime was still recent, by the incursion of the Indians which forced them to flee, the Government of the United States is responsible for all the damage done; because it is its duty to repress those invasions and to make good such damage as may be caused directly or indirectly thereby.

The same may be said in the case of those authorities which, either through negligence or complicity, do not fulfill their duties, and both circumstances have conspired to aid the escape of the criminals, who are protected, not by secrecy or doubt as to who they were, but by the fear which they inspire on account of their wealth, their numbers, and, above all, by the influence which they acquire over authorities that are guilty, through collusion with the criminals, of the crime for which they inflict punishment. This crime is the skinning of cattle for the purpose of selling their hides. This has been committed in Texas for many years, and has increased to an alarming extent, which can only be explained by the bad faith of the authorities, in regard to which much might be said. I need not take this trouble, however, in view of the testimony taken last year by the committee of investigation, when the bad conduct of the stockmen was fully shown, as was also their criminality, and that of the authorities themselves, who in many ways encouraged the evil, which was in reality the cause of the murder of my shepherds, and which forced me to sell my property in Texas at a great sacrifice, I losing at the same time a considerable portion of my property on account of the abandonment of my animals, which the authorities of San Diego were unable to prevent, by reason of the incursion of the Indians which took place at that time.

Even if the investigations to which I have referred had not been held, the mere perusal of the Texas newspapers would remove any doubt on this head, and would firmly establish the justice of my claim for indemnity from the American Government. Irrecusable testimony, which will be furnished in due time, will also confirm this; for there are citizens in San Francisco de Apodaca who were working at Stonebridge, Tex., when my shepherds were murdered, and they state that one or two days previously a band of American stock-raisers was organized there, whom they believe to have committed the said murders; because, as soon as they had returned, the report that they had done so began to circulate.

Complaints were also made to the government of Texas and that of the United States by an American citizen of San Diego, who asked for protection on account of the demoralization which existed there, and stated that the outrages which were occurring there, through the negligence of the authorities, who, far from repressing, encouraged the commission of the crime of skinning cattle by the licenses which they issued for the purchase of hides, the traffic in which was scandalous.

The authorities being powerless to correct the evil, information lodged against those who had committed the murders did not stimulate them to perform their duty by fully investigating the facts, nor even to take such precautions as would have guaranteed security to those who, in such a state of things, saw their lives and property at stake.

As regards my property, as soon as I learned the facts by the telegram, which I inclose, I set out from Aguafria for San Diego, Tex., accompanied by twelve men, whom I took to act as my escort and to collect the dispersed remnant of my animals. In that great disaster, as I have already said, the authorities did not collect my animals, nor did they prevent the loss resulting from the abandonment of all my animals in the country in consequence of the murder of my shepherds.

Another butchery of Mexicans, which took place at the very time that I arrived at my rancho, caused me to understand the gravity of the state of things there prevailing, and of the lack of protection; because those murdered were not thieves, but Mexican land-owners of well-known respectability. This caused me to form the design of abandoning those regions, selling my property at any price that I might be able to obtain. I was confirmed in this purpose by two circumstances which came to my knowledge, one of which was that the magistrate of San Diego abandoned his residence through fear, and that he did not return to it until he could do so accompanied by a detachment of troops, which employed their time in everything but the detection and apprehension of the criminals, who, as was well known, were the stock-raisers of Stonebridge and San Diego; the other was the information that was received (and which I consider reliable) of a movement on the part of all the Texan stock-raisers, in case certain measures were carried out which had been resolved upon at Corpus Christi, for the purpose of preventing those outrages, which frustrated even the hope of improvement in that sad condition of affairs.

My losses have not been caused by the dispersion of my animals alone, but by the expense incurred in collecting them, and by the necessity I was under of selling them at a great sacrifice, feeling certain, as I did, that if I should take them to Mexico the loss would be certain, as the result proves in the case of that portion which I was unable to sell.

The reality of the losses and injuries suffered is made evident by the statement of the facts, but I demonstrate it by the documents which I herewith transmit, and the testimony of the witnesses whom I shall present for examination by means of the inclosed questions which I refer to, all the facts upon which I propose to base my own claim and those of the families of the murdered shepherds. I therefore beg you to be pleased duly to examine the case, and to cause the depositions of the witnesses to be drawn up in due form, and then to transmit the original of the same to me, that I may address the citizen minister of foreign relations, since they form only an *informatio ad perpetuam*, which should remain in my possession that I may hereafter, at any time, be able to take such steps as my interests may require. I ask only justice.

Monterey, July 28, 1874.

TORIBIO LOZANO.

N. B.—I inclose receipts for payments of taxes in Texas after the murder of my shepherds, as is seen, of the same date, and it must be observed that of the three receipts to which I refer, two are given in the name of the citizens Pablo Garza and Antonio Lozano, who were keeping on shares animals belonging to me.

I also inclose the certificate of inspection given in Texas, in accordance with the laws of that State, whereby I show that I transported my animals, concerning which circumstance all doubt is removed by the certificate of the payment of passage of my animals, which I also inclose. Date *ut supra*.

LOZANO.

Questions to be asked the witnesses referred to in the foregoing application.

First. What is your name; occupation; place of residence, &c.?

Second. Do you know that Mr. Toribio Lozano is a Mexican and a resident of Aguafria in this State of Nuevo Leon?

Third. Is it true that he has owned sheep and goats for many years? Where has he kept them? How long, and what kind of persons did he employ to take care of them? How much did he pay them? Of what nationality were they? How do you know all this?

Fourth. Do you know anything about the rancho which Mr. Lozano owned in San Diego, Nueces County, Texas? If so, what was its approximate value?

Fifth. Is it true that in the month of December, 1873, while Mr. Lozano was at Aguafria, he received news of the murder of his shepherds by the telegraph from Corpus Christi?

Sixth. Did Mr. Lozano set out for Texas accompanied by nine men, three men setting out after him subsequently, the details of the occurrence being known there while another outrage was being committed upon two other Mexican land-owners, one of Guerrero, the other of Camargo, a servant of each of the latter being also murdered?

Seventh. Is it true that common report attributed those murders to armed bands of American stock-raisers from Dogtown and Stonebridge; if so, what was the cause of this rumor, and what induced said stock-raisers to commit those atrocities?

Eighth. Did the magistrate of San Diego receive timely information of these rumors? Did said magistrate leave the city through fear, returning accompanied by soldiers, who came for the purpose of guarding the town?

Ninth. Is it the general opinion that these disorderly acts and murders are due to the skinning of cattle in the country districts? Is it true that the sale of hides is conducted freely by permission of the authorities?

Tenth. From the knowledge which you have of the property of Mr. Lozano, was said property worth the prices charged therefor in the account presented by him? Were the losses, which he claims to have suffered, suffered in reality? Were said losses due to the cause stated by him? Has the estimate been justly made?

Eleventh. Did the Texan authorities, particularly those of San Diego, take any steps, after receiving information of the murders, for the detection and punishment of the criminals in order to prevent the loss of the animals, and in order to guarantee safety? What is your opinion with regard to their conduct; and why?

Twelfth. Have you any interest, either direct or indirect, in the claim now presented by Mr. Lozano?

TORIBIO LOZANO.

MONTEREY, August 5, 1874.

Statement of losses and injuries caused to Toribio Lozano by the authorities and people of Texas.

| | |
|---|------------|
| Two thousand eight hundred head of sheep and goats, lost from being abandoned in consequence of the death of the shepherds, at \$1 each.... | \$2,800 00 |
| Amount due from the murdered men, according to certificate..... | 686 67 |
| Loss incurred in selling the rancho, the true value of which was \$2,500, and which had to be sold for \$500..... | 2,000 00 |
| Loss suffered from death of animals during their removal, together with other losses..... | 1,500 00 |
| Expenses incurred in finding and employing new shepherds and men taken from Aguafria, to collect the dispersed animals..... | 2,800 00 |
| Personal expenses incurred by myself while engaged in collecting and removing my dispersed animals..... | 1,200 00 |
| Loss suffered in consequence of the sale in Texas of 9,000 sheep, the amount lost on each being three reals..... | 3,375 00 |
| Value of the arms of the shepherds which were seized by the murderers.. | 210 00 |
| Loss suffered through the absence of the shepherds..... | 1,150 00 |
| Loss incurred by me in consequence of abandoning my business at Aguafria, in order to attend exclusively to my affairs in Texas..... | 2,500 00 |
| Total..... | 18,221 67 |

TORIBIO LOZANO.

MONTEREY, August 5, 1874.

NOTE.—I make no charge for the amounts given by me in charity to all of the families of the murdered shepherds, said families being reduced to a condition of extreme poverty. Dated as above.

LOZANO.

Presented on the 6th at 9 o'clock in the morning. [A flourish.]

MONTEREY, August 6, 1874.

Presented with the accompanying documents and account. Let him ratify the statements which he makes; let the steps which are requested be taken; and let the original be returned certified for such purposes as may be necessary. The citizen district judge of Nuevo Leon has thus ordered and signed before me, the secretary. I certify.

The licentiate,

VALDEZ GOMEZ.

PABLO BORREGO, *Secretary.*

On the seventh of the same month, the citizen Toribio Lozano being present in this court, the foregoing document was read to him, and he said that he heard it, and

the petition and account presented by him having been read to him, he stated under oath that he ratified all the statements therein made, and declared that he had not presented this claim either to the Mexican or to the American government, and he signed with the citizen judge before me, the secretary. I certify.

The licentiate,

VALDEZ GOMEZ.
TORIBIO LOZANO.

PABLO BORREGO, *Secretary.*

On the same day the aforesaid Toribio Lozano presented the citizen Santos Mendez as a witness, who declared under oath that he would tell the truth in answer to any question that might be asked of him, and being questioned in the form presented by the citizen Toribio Lozano, he replied as follows:

First. My name is as above; am married; a stock-raiser; am a resident of San Francisco; am thirty-eight years of age. There is no legal obstacle to my testifying in this matter; am in no way interested in Mr. Lozano's claim.

Second. The citizen Toribio Lozano is a Mexican, and a resident of Aguafria, in the State of Nuevo Leon.

Third. The aforesaid Mr. Lozano had been for twelve years an owner and breeder of sheep and goats in Texas. The people employed by him were always Mexicans, and were very honest. He always gave them good pay; this I know to be a fact, because I lived several years in Texas, engaged in raising cattle near the rancho owned by Mr. Lozano.

Fourth. I have a perfect knowledge of the rancho owned by the aforesaid Mr. Lozano, in San Diego. It was worth about \$3,000.

Fifth. I know that Mr. Lozano received news by telegraph at Aguafria of the murder of his shepherds, because I was there at the time.

Sixth. I accompanied Mr. Lozano to Texas; there we learned the particulars of the murder of the shepherds and of three other Mexicans.

Seventh. It was well known in Texas that armed bands of American stock-raisers of Dogtown and Stonebridge were the persons who committed those horrible murders, because in consequence of the great disorder and lack of security there existing there are thieves in that neighborhood who skin cattle, and because the authorities do not take care as they should to bring the offenders to justice.

Eighth. It was well known that the magistrate of San Diego had knowledge of those atrocities, and that he left the town through fear of the bandits, returning accompanied by soldiers, who came to guard the town in consequence of the great disorder there prevailing, and the lack of protection from the American Government.

Ninth. These disorders and murders are to be attributed to the killing of cattle, the hides of which are freely sold by permission of the authorities, thus causing the murder of innocent, honest, and industrious persons, as were the shepherds of Mr. Lozano.

Tenth. From my knowledge of the affairs of Mr. Lozano I have no doubt that said Lozano lost much more than the eighteen thousand and odd dollars which appear in the account presented by him. The said loss is due, I think, to negligence on the part of the authorities of Texas in failing to punish the murderers.

Eleventh. The authorities of Texas, particularly those of San Diego, took no steps for the punishment of the murderers or to prevent the dispersion of the animals that had been abandoned in consequence of the murder of the shepherds. I have only heard that an inquest was held upon the bodies and that none of the murderers were pursued, in view of the great disorder prevailing there, which was due to the negligence of the American Government.

Twelfth. I am interested neither directly nor indirectly in the claim presented by Mr. Lozano.

His above declaration having been read to him, he ratified it and signed, with the citizen judge, before me, the secretary. I certify.

The licentiate,

VALDEZ GOMEZ.
SANTOS MENDEZ.

PABLO BORREGO, *Secretary.*
MONTEREY, August 7, 1874.

Mr. Lozano having stated that his other witnesses reside at San Francisco de Apodaca, and that they cannot come in consequence of the distance, let these questions be sent to the citizen second alcalde of said town that he may be pleased to examine such persons as may be presented to him by the said Lozano. This having been done, let him transmit the testimony to this court. The citizen district judge of Nuevo Leon so ordered, and signed before me, the secretary. I certify.

The licentiate,

VALDEZ GOMEZ.

PABLO BORREGO, *Secretary.*

On the same day the citizen Toribio Lozano, being present, was informed of the contents of the foregoing documents, and said that he heard the same and signed. I certify.

TORIBIO LOZANO.

BORREGO, *Secretary.*

This expediente sent to the citizen second alcalde of San Francisco de Apodaca, as above ordered.

Apodaca, August 12, 1874.

Let the witnesses who may be presented be examined in conformity with the questions presented; and, this having been done, let the testimony be transmitted to the district court of Nuevo Leon. This is ordered by me, Feliciano Treviño Garza, second constitutional alcalde of this town; and I have signed, with assisting witnesses, with whom I act in accordance with law: I certify.

FELICIANO T. GARZA.

ANTONIO DE LA GARZA Y GARZA.

HESQUIO GARZA.

And on the same day the citizen Toribio Lozano presented the citizen Rafael Garcia as a witness, who declared under oath in due form, and in presence of the citizen Benigno Zambrano, postmaster, that he would tell the truth in answer to all questions that should be asked of him, and being questioned in the form presented by Mr. Lozano, he replied in answer to the questions:

First. My name is as above; am married; am 32 years of age; by occupation a laborer; reside in this town.

Second. The citizen Toribio Lozano is a Mexican by birth, a resident of Agua Fria, in this State of Nuevo Leon, and he has never changed his nationality.

Third. In the year 1861, Mr. Lozano removed his animals to Texas for the purpose of selling them, and not being able to do so in consequence of the war of the confederates, he left them for breeding purposes at the rancho in San Diego. He employed Mexican shepherds whom he hired here among the best people, because he was obliged to leave them alone with his animals, for which reason he gave them very good pay, giving each one from fifteen to sixteen dollars per month. This he did in order to induce them to leave their country and to go and serve on foreign soil.

Fourth. I know the rancho which belonged to Mr. Lozano at San Diego. I know that it was a valuable one, and I think it was worth about \$3,000. I have worked there as a manager, and I know the value of these things in Texas.

Fifth. In December last Mr. Lozano received news of the death of his shepherds and the loss of his animals. The fact soon became widely known because the murdered persons belonged in this place. I accompanied him, together with several other persons, to his rancho for the purpose of collecting what remained of his property.

Sixth. In going to Texas for the purpose above referred to, we learned before we reached San Diego, that several other Mexican stock-raisers had been murdered at a neighboring place called el Haramusco; it being very generally stated that these murders had been committed by the same stock-raisers to whom was attributed the murder of the seven shepherds of Mr. Lozano. The men who accompanied Mr. Lozano were nine in number, three others following subsequently.

Seventh. When we left Agua Fria neither Mr. Lozano nor any of those who accompanied him knew the real cause of the disaster. Mr. Lozano was of the opinion that it had been caused by Indians, because about two years before they had killed some of his shepherds and done him much damage. The facts were not learned until we reached Texas. These murders were there attributed to bands of American stock-raisers, who arm themselves in secret for the purpose of killing Mexicans, making no distinction between the innocent and the guilty. It was a matter of common report that inhabitants of Dogtown and Stone Bridge were the perpetrators of those atrocities, being led to do so by the great disorder which exists in the country districts thereabouts in consequence of the skinning of cattle in order to sell their hides, and in view of the bad faith of the authorities, it being well known that they give written permits for the purchase of hides.

Eighth. I learned that the magistrate of San Diego left with other citizens for the purpose of reporting the outrage committed upon Mr. Lozano's shepherds, but he returned in consequence of an incursion made by Indians in that neighborhood, during which they killed upwards of thirty persons, Mexicans and Americans. The said magistrate did not then go in pursuit of the Indians; and the bodies remained hanging and the animals dispersed for six or eight days, while the Indians were being pursued. During that time the other deaths occurred to which I refer in answering the sixth question. When the judge at San Diego undertook to investigate the crime committed by the people of Dogtown and Stone Bridge, who, according to the statement of a boy who had escaped from the second massacre, and who stated unequivocally that one person from Dogtown had been concerned in the outrage, said persons threatened him,

and the magistrate left the place and did not return for several days, and when he came, accompanied by a number of soldiers who came for the purpose of guarding the town, but took no steps for the detection and punishment of the perpetrators of the two outrages which had just been committed.

Ninth. Robberies have been committed for many years in Texas in a scandalous manner; stock-raisers steal cattle from each other; and there are people who have no other occupation than that of stealing cattle. The skins taken from the animals are sold freely, and the authorities give written permits for their purchase. I have seen such permits myself. This, in the opinion of all who have any knowledge of such things, has increased the disorder. I believe that this is the reason why stock-raisers murder all whom they meet with in the country districts, on the ground of their being thieves. The authorities, for this reason, hold no investigations.

Tenth. I am acquainted with the property which has been owned by Mr. Lozano for many years, for I have been at his stock-farm in Texas several times. I know that he has recently suffered severe losses, and I think that they may very likely be larger than he states, since he will have no young animals this year, and he lost many of his sheep and goats in removing them. I saw a good deal of this myself, because I accompanied him as far as Barretillas, where he now has the animals, which he was unable to sell in Texas, or which he did not lose. The true cause of these losses is, in my opinion, the collusion of the authorities in Texas with the criminals of that State.

Eleventh. I have already told what the magistrate of San Diego did after the murders, and have stated that the criminals remained unpunished for their crime. An incursion of Indians took place at that time, and the abandonment of the animals for many days occasioned great losses. The authorities did nothing to prevent these losses. I have also said that the cause of this conduct is the collusion of the authorities themselves with the cattle-stealers.

Twelfth. I am interested neither directly nor indirectly in the claim presented by Mr. Lozano.

The foregoing declaration, having been read to him, he ratified it, but did not sign, because he did not know how. I, the judge, signed, together with the citizen postmaster and attesting witnesses. I certify.

The licentiate,

FELICIANO T. GARZA.
ABRAHAN ZAMBRANO.

ANTONIO DE LA GARZA Y GARZA,
HESQUIO GARZA,

Witnesses.

On the same day, the claimant presented as a witness the citizen Bartolome Garza who, being solemnly sworn in the presence of the citizen postmaster, declared that he would tell the truth in reply to any questions that might be asked of him, and, being questioned in the form proposed by the citizen Toribio Lozano, he replied to the various questions as follows:

First. My name is as aforesaid; am married; am 40 years of age; by occupation a laborer; reside in this town. There is no impediment to my testifying in this case, and I have no interest in it whatever.

Second. The citizen Toribio Lozano, is a Mexican citizen by reason of his birth at Agua Fria, in this State of Nuevo Leon, and he has never changed his nationality as a Mexican.

Third. In 1861 the said Lozano removed his animals to Texas for the purpose of selling them. Not succeeding in doing so, in consequence of the war with the confederates, he left them there for breeding purposes at his rancho in San Diego. He employed Mexican shepherds, hired here among the best people, because he was obliged to leave them alone with his animals, for which reason he gave them very good pay, giving each one from fifteen to sixteen dollars per month, in order to induce them to leave their country and serve on foreign soil.

Fourth. I know a good deal about the rancho in San Diego, owned by Mr. Lozano, and I know that it was a valuable piece of property. In my opinion, its value is about \$3,500 dollars. I know this, because I have seen it, and have a general knowledge of the value of such things in Texas.

Fifth. I know that in December last he received news of the murder of his shepherds and of the loss of his animals because, the matter soon became generally known, as the persons murdered belonged in this place. Moreover, I saw him set out in company with several other persons intending to go to his rancho, and collect whatever might remain of his property, and I went afterwards to join him in Texas.

Sixth. On going to Texas for the purpose referred to in the foregoing question, we learned, before we reached San Diego, that a butchery of Mexican stock-raisers had been perpetrated at a place called el Haramusco, very near the place where Mr. Lozano's shepherds were hung; and it was very generally stated that these murders had

been committed by the same stock-raisers of those localities, who were believed to have hung the seven shepherds of Mr. Lozano. Mr. Lozano was accompanied when he left Mexico by nine men; three other men, of whom I was one, followed subsequently.

Seventh. When Mr. Lozano left Agua Fria, neither he nor those who accompanied him knew the true cause of the disaster. Mr. Lozano inclined to the belief that the outrage had been committed by Indians, because about two years before the latter had killed some of his shepherds and done him much injury. The true state of the facts was not known until Mr. Lozano arrived in Texas. The murders referred to were believed to have been committed by bands of American stock-raisers, who arm secretly for the purpose of killing Mexicans, without making any distinction between the innocent and the guilty. It was well known that parties residing in Dogtown and Stone Bridge were the perpetrators of those atrocities, they having been induced to act as they did by the great disorder which prevails thereabout in consequence of the skinning of cattle for the purpose of selling their hides, and in view of the bad faith of the authorities, who, as is well known, give written permits for the purchase of hides.

Eighth. I learned that the magistrate of San Diego went with other citizens to report the outrage committed upon the shepherds of Mr. Lozano, but he returned in consequence of an Indian incursion in those regions, in which more than thirty persons, Mexicans and Americans, were killed. The said magistrate then went in pursuit of the Indians, and the murdered men remained hanging and the cattle remained dispersed for six or eight days, during which time the pursuit of the Indians was going on. During that time the other murders were committed to which I referred in reply to the sixth question. When the judge of San Diego prepared to hold an investigation in regard to the conduct of the people of Dogtown and Stone Bridge, who were designated by the statements of a boy, who had escaped from the second massacre, and by unequivocal indications, as the guilty parties, said persons threatened him as was said, and the magistrate left the place, not returning until several days had elapsed, when he came accompanied by a number of soldiers, who were assigned to guarding the town, but did nothing for the protection and punishment of the perpetrators of the two massacres which had so recently been committed.

Ninth. Robberies have been carried on in Texas for many years. They are committed in a scandalous manner by stock-raisers, who rob one another, and also by persons whose sole occupation is cattle-stealing, on account of the value of the skins, which are removed from the animals by the thieves. These hides are sold freely, and the authorities give written permits for their purchase, which I have seen. In the opinion of all who are acquainted with these matters, the disorder has increased, and it is believed that this is the reason why stock-raisers unite for the purpose of murdering all whom they meet in the country districts, on the ground of their being thieves, and the authorities for this reason held no investigations.

Tenth. I have been acquainted with the property of Mr. Lozano for many years, having been at his rancho in Texas several times. I know that he has recently suffered severe losses in Texas, and can confidently say that they may be greater than he states, since he will now get no young animals, and has lost many animals while removing. What I did not see I heard from those who accompanied Mr. Lozano to Barretillas, where he now keeps the animals he was unable to sell in Texas or which he did not lose. The true cause of these losses is, in my opinion, the collusion of the Texan authorities with the criminals of that State.

Eleventh. I have told what the magistrate of San Diego did after the murders, and have said that the criminals remained unpunished for their crime. The abandonment of the animals for many days occasioned serious losses, and the authorities took no steps to prevent such losses. I have also said that I believe the cause of this conduct to be the collusion of the same authorities with the cattle-stealers.

Twelfth. I am interested neither directly nor indirectly in the claim now presented by Mr Lozano.

His foregoing declaration having been read to him he ratified, not signing, because he did not know how. I, the judge, did so, together with the citizen postmaster and assisting witnesses. I certify.

FELICIANO T. GARZA.
ABRAHAN ZAMBRANO.

ANTONIO DE LA GARZA Y GARZA,
HESIQUIO GARZA,

Witnesses.

NOTE.—In the original *expediente* are likewise the depositions of the following witnesses: the citizen José Sendejo, the citizen Pablo Garza, and the citizen Hipolito Longoria, corresponding exactly with the foregoing, but which are here omitted, in order not to make this document too voluminous.

EXECUTIVE OFFICE, STATE OF TEXAS,
Austin, May 8, 1874.

SIR: Your communication of February 6, giving information of the unlawful hanging of Mexican subjects by citizens of Texas, in Nueces County, and asking the means to be used to bring the guilty perpetrators of the crime to justice, came to hand a few days ago.

Press of business, consequent upon the session of the legislature, has prevented an earlier answer to your communication. I have to say, in reply, that in the section of country where these outrages are committed, regular terms of the district court, which has original and ample jurisdiction to try and punish the offenders, are regularly held. There are sheriffs in each county, whose duty it is to arrest such offenders and bring them before the courts for trial and punishment. The executive can only act through these officers in having the laws enforced; he has no power to use other agencies.

It is a matter of regret that lawlessness prevails to a great extent in the western and border counties, and, in some degree, cannot be reached by the regular authorities, but this state of things results necessarily, in a measure, from our form of government. While it is no excuse or justification for the murderers of our countrymen, who ought to be punished, and to the extent that the power resides in the executive shall be dealt with by law, I will suggest that your "herders" and stockmen might avoid these infractions by remaining with their stock on the west side of the Rio Grande, or, if they will come into Texas, by scrupulously respecting the rights of property, which I am informed they have not always done. I will call the attention of the proper officers of the law to the matter of which you complain and ask that they make investigation of them, and if the law has been violated that the offenders be prosecuted.

Very respectfully,

RICHARD COKE.

M. M. MORALES,

Mexican Consulate, San Antonio, Texas.

[Inclosure 2.—Translation.]

Folio 13.—Documentary evidence in the case of the murdered shepherds.

District court of the State of Nuevo Leon, Monterey:

No. 52.—Deposition of witnesses solicited by the citizen Toribio Lozano, as the attorney of Mrs. Bernarda Garza and others, with regard to the murder of five Mexican citizens, committed in Texas.

AUGUST 6.

First constitutional court of San Francisco de Apodaca:

On this day have appeared before me Doña Bernarda Garza, Doña Teresa Ramones, and Doña Cayetana Lopez, stating that they are widows, the first having a family of six; the second, five; and the third, three; that they are widows of the late Mexican citizens Filomeno Rios, Jorge Rodriguez, and José Ma. Reina, who were hung in Texas on the 28th day of November, 1873; likewise Mrs. Garza, as the representative of her brother Epifanio Rios, and Don Ramon Garza, seventy years of age, for his son Leonardo Garza, who were also hung with the persons first named, all of them having been in the service of Don Toribio Lozano, who had employed them to take care of his sheep and goats. They have declared that these numerous families are now living in a state of great poverty, having had no means of support save the labor of their husbands, and in the belief that they have an evident right to an indemnity from the American Government they desire to ask for the same, and to this effect they have requested me to assist them, as indigent persons, and to authorize, in due form of law, the same citizen, Toribio Lozano, to represent them, and to claim in their name a suitable indemnity for them. Considering that the reasons stated are just, since this court is aware that the appearers were wives and relatives of the shepherds who were hung, and they have the families aforementioned, and that it is their desire that Mr. Lozano should represent them, I hereby authorize you to do so, charging you to reply hereunto for the knowledge of the parties interested.

Independence and liberty.

Apodaca, July 28, 1874.

LAZARO GUAJARDO.

H. GARZA, *Secretary.*

To the citizen Toribio Lozano, Agua Fria.

CITIZEN DISTRICT JUDGE: I, Toribio Lozano, a resident of Agua Fria, and now in this city, appear before you with due respect and state that, as is shown by the accom-

panying documents, I have been appointed an attorney to represent the relatives of five of my shepherds, who were murdered in Texas under such circumstances that all the responsibility falls upon the Government of the United States, from which the parties interested propose to ask a suitable indemnity. For this purpose it is necessary, in the first place, to prove the murders, and that the persons murdered were relatives of the persons whom I represent, and that they were their sole support; second, that, in their case, death, the greatest evil that can happen to a man, was due to the negligence of the Texan authorities, or to their collusion; third, that in consideration of the condition and other circumstances of the persons murdered, the proper sum to repair the evil done should be estimated at \$50,000 for each one so murdered. Therefore, in the name of the aforesaid persons, whom I represent, I beg you to prepare a proper statement of the points named for me, as a poor man, on free paper, and having done so to deliver the same to me in the original, that I may appeal to the minister of foreign relations. What I ask is justice; and this I swear in due form.

Monterey, August 5, 1874.

TORIBIO LOZANO.

Presented on the 6th, at eleven o'clock a. m.

Indorsement of the court.

MONTEREY, August 6, 1874.

It appearing that the persons appointing the citizen Toribio Lozano to represent them are really poor, they are admitted as such, as is likewise the said Mr. Lozano, as their representative in this case, and in consequence let him ratify his foregoing statement. Let the statement requested by him be made in due form of law, and let it be returned to him if shall so elect. The citizen district judge of Nuevo Leon so ordered, and signed before me the secretary. I certify.

The licentiate,

VALDEZ GOMEZ.

PABLO BORREGO, *Secretary.*

O.—Ratification by Attorney Lozano.

On the seventh of the same month, the citizen Toribio Lozano, being present in this court, was informed of the contents of the foregoing, and said that he heard it, requesting that the original statement, when concluded, might be delivered to him with a certified copy; and the foregoing statement having been read to him, he ratified it under oath, saying that all the facts therein contained were true, and that he had not presented this claim previously either to the Mexican or to the American Government, and he signed with the citizen judge before me the secretary. I certify.

The licentiate,

VALDEZ GOMEZ.
TORIBIO LOZANO.

PABLO BORREGO, *Secretary.*

P.—Declaration of Santos Mendez.

On the same day Toribio Lozano presented as a witness the citizen Santos Mendez, who declared under oath that he would tell the truth in reply to any questions that might be asked of him, and being questioned, he said:

My name is as above; am thirty-eight years of age; am married; am by occupation a stock-raiser; am a resident of San Francisco. There is no legal impediment to my testifying in this matter, in which I am in nowise interested.

Having been questioned according to the tenor of the foregoing document of the 28th ultimo, and of the foregoing application, which were read to him at length, he said:

I know that in November last the Mexican citizens Filomeno Rios, Jorge Rodriguez, José Ma. Reina, Epifaneo Rios, and Leonardo Garza were hung, together with two other Mexicans. All these were in the employ of the citizen Toribio Lozano. I know this because I was at the place where the crime was committed, both before and afterwards. I removed some of the ropes by which they had been suspended. These murders are due to the negligence of the Texan authorities and their complicity with the criminals, whom they do not punish, as was the case with respect to the murderers of those seven shepherds. I know that Doña Bernarda Garza is the widow of Filomeno Rios, that she has a large family, and that she was a sister-in-law of Epifaneo Rios, brother of Filomeno; that Doña Teresa Ramones is the widow of Jorge Rodriguez, and has five children; that Doña Cayetana Lopez is the widow of José Ma. Reina, and has three children; and that Don Ramon Garza, now seventy years of age, was the father of Leonardo Garza. I was perfectly well acquainted with the five persons murdered,

to whom I have referred. They were very honest and industrious, and an indemnity of fifty thousand dollars for each one would not be sufficient. I know all this because I was well acquainted with the persons and their families, and because I have been in Texas.

His foregoing declaration having been read to him, he ratified and signed it, with the citizen judge, before me the secretary. I certify.

The licentiate,

VALDEZ GOMEZ.
SANTOS MENDEZ.

PABLO BORREGO, *Secretary.*

MONTEREY, *August 7, 1874.*

The petitioner having stated that his other witnesses reside at San Francisco de Apodaca, where he desires that they may be examined in order to avoid the expense of their journey to this capital, let this statement be sent to the citizen second alcalde of the aforesaid town, in order that he may receive the declarations of the persons who may be presented by Mr. Lozano. This having been done, let him return the whole to this court. The citizen district judge of Nuevo Leon so ordered, and signed before me the secretary. I certify.

The licentiate,

VALDEZ GOMEZ.

PABLO BORREGO, *Secretary.*

Afterward the citizen Toribio Lozano, being present, was informed of the contents of the above, and said that he heard it and signed. I certify.

TORIBIO LOZANO.

BORREGO, *Secretary.*

This information is transmitted to the citizen second alcalde of San Francisco, as above ordered.

APODACA, *August 15, 1874.*

Let it be obeyed. Consequently the witnesses who may be presented by Don Toribio Lozano, the party interested in this case, having been examined, let their testimony be transmitted to this court, as ordered above. I, Feliciano T. Garza, second alcalde, so determine, order, and sign, with assisting witnesses, according to law. I certify.

FELICIANO T. GARZA.

HESQUIO GARZA,
ANTONIO DE LA GARZA Y GARZA,
Assisting Witnesses.

R.—Declaration of Don Rafael Garcia.

On the same day, the party interested presented as a witness Don Rafael Garcia, who had declared under oath, in presence of the citizen postmaster of this city, that he would tell the truth in answer to all questions that might be asked of him, and, being questioned, he said:

My name is as above; am married; am 32 years of age; am by occupation a laborer; am a resident of this town of Agua Fria. There is no impediment to my testifying in this case, in which I am in nowise interested.

When questioned according to the tenor of the document of the 28th of last month, and of the preceding application, both of which were read to him at length, he said:

In November last the Mexican citizens Filomeno Rios, Jorge Rodriguez, José Ma. Reina, Epifaneo Rios, and Leonardo Garza were hung, together with two other Mexicans, all of them in the employ of Don Toribio Lozano, of this town of Agua Fria. This I know, because I was at the place where the crime was committed, and saw the objects where they were hung. It was a matter of public notoriety that those deaths were due to the negligence of the Texan authorities, and to their complicity with the criminals, whom they do not punish, as was the case in respect to the murderers of those seven shepherds. I know that Doña Bernarda Garza is the widow of Filomeno Rios, has a large family, and is the sister-in-law of Epifaneo Rios, brother of Filomeno; that Doña Teresa Ramones is the widow of Jorge Rodriguez, who left her with five children; that Doña Cayetana Lopez, who has five children, is the widow of José Ma. Riena; and that Don Ramon Garza, 70 years of age, was the father of Leonardo Garza. I was perfectly well acquainted with the five persons referred to who were murdered. They were very honest and industrious men; the first being 45 years of age, the second 50, the third 32, the fourth 35, and the fifth 22. I believe that \$50,000 for each one would not be a sufficient indemnity for their death. I know all this be-

cause I was well acquainted with the persons and their families, and because I have been in Texas.

His foregoing declaration having been read to him, he ratified it, not signing because he did not know how. I, the judge, signed, with assisting witnesses. I certify.

FELICIANO T. GARZA.

ABRAHAN ZAMBRANO,
HESIQUIO GARZA,
ANTONIO DE LA GARZA Y GARZA,
Attesting Witnesses.

The party interested next presented as a witness Don Bartolomé Garza, who, under oath, in presence of the citizen postmaster of this city, declared that he would tell the truth in reply to any questions that might be asked of him; and, being questioned, he said:

My name is as above; am married; am 40 years of age; am by occupation a laborer; am an inhabitant of this town of Agua Fria. There is no impediment to my testifying in this case.

Having been questioned in accordance with the tenor of the foregoing document of the 28th of last month, and of the application preceding, both of which documents were read to him at length, he said:

"I know that in November last the Mexican citizens Filomeno Rios, Jorge Rodriguez, José Ma. Reina, Epifaneó Rios, and Leonardo Garza were hung, together with two other Mexicans, all of them being in the employ of Don Toribio Lozano of this town of Agua Fria. This I know because I went to the place where the crime was committed after the commission of the deed, and saw the dead bodies where they were suspended. In my opinion, and according to common report, those deaths were due to the negligence of the Texan authorities and their collusion with the criminals, whom they do not punish, as has been the case with the murderers of those seven shepherds. I know also that Doña Bernarda Garza is the widow of Filomeno Rios, has a large family, and was the sister-in-law of Epifaneó Rios, brother of Filomeno; that Doña Teresa Ramones is the widow of Jorge Rodriguez, who left her with five children; that Doña Cayetana Lopez, with three children, is the widow of José Ma. Reina, and that Don Ramon Garza, seventy years of age, was the father of Leonardo Garza. I knew perfectly well the five persons referred to who were hung. They were very honest and industrious men. The first was forty-five years of age; the second fifty; the third, thirty-two; the fourth, thirty-five; the fifth, twenty-two. I believe that \$50,000 for each one would not be a sufficient indemnity for their death. I know all this because I was well acquainted with the persons and their families, and because I have been in Texas."

His declaration having been read to him, he ratified it, not signing, because he was unable to do so. I, the judge, signed, with assisting witnesses.

I certify.

FELICIANO T. GARZA.
ABRAHAN ZAMBRANO.

HESIQUIO GARZA.
ANTONIO DE LA GARZA Y GARZA.
Assisting Witnesses.

Declaration of José Cendejo.

The party interested next presented as a witness the citizen José Cendejo, who, under oath, in presence of the citizen postmaster, declared that he would tell the truth so far as he knew and should be questioned, and, being questioned, he said:

"My name is as above; am unmarried; am thirty years of age; am by occupation a laborer; am a resident of Agua Fria. There is no impediment to my testifying in this case, in which I have no interest whatever."

Being questioned according to the tenor of the document of the 18th of last month, and of the application preceding, both of which documents were read to him at length, he said:

"I know that, in November of last year the Mexican citizens Filomeno Rios, Jorge Rodriguez, José Ma. Reina, Epifaneó Rios, and Leonardo Garza were hung, together with two other Mexicans, all of them in the employ of Don Toribio Lozano, of this town of Agua Fria. This I know because I have been at the place where the crime was committed and seen the dead bodies and the objects with which they were hung. It was well known that those deaths were due to negligence on the part of the Texan authorities and their complicity with the criminals, whom they do not punish,

as has been the case with respect to the murderers of those seven shepherds. I likewise know that Doña Bernarda Garza is the widow of Filomeno Rios, has a large family, and was the sister-in-law of Epifaneo Rios, the brother of Filomeno; that Doña Teresa Ramones is the widow of Jorge Rodriguez, and has a family of five children; that Dona Cayetana Lopez, with three children, was the widow of José Ma. Reina, and that Don Ramon Garza, seventy years of age, was the father of Leonardo Garza. I was perfectly well acquainted with the five persons referred to who were murdered. They were very honest and industrious men. The first was forty-five years of age; the second, fifty; the third thirty-two; the fourth, thirty-five; the fifth, twenty-two. I think that \$50,000 for each one would not be a sufficient indemnity for their death. I know all this because I was well acquainted with the persons and their families and because I have been in Texas."

His foregoing deposition having been read to him, he ratified it but did not sign, on account of not knowing how to write. I, the judge, signed with assisting witnesses.

FELICIANO T. GARZA.
ABRAHAN ZAMBRANO.

HESQUIO GARZA,
ANTONIO DE LA GARZA Y GARZA,
Assisting Witnesses.

On the same day this is transmitted as ordered.

GARZA.

On the tenth of September of the same year the foregoing information was received in this court.

MONTEREY, *September 12, 1874.*

Let the present information be delivered to the citizen Toribio Lozano, as ordered on the 6th of August last; and let the copy requested by him, on the 7th day of the same month, now be delivered to him by the secretary. The citizen district judge of the State of Nuevo Leon so decreed and signed before me, the secretary. I certify.

The licentiate.

VALDEZ GOMEZ.

PABLO BORREGO, *Secretary.*

On the 13th of the same month it is noted that the citizen Toribio Lozano, having been summoned, that he might be notified of the foregoing, the messenger sent to summon him brought word that he was absent from this town, in the interior.

On the 21st of October of the same year the citizen Toribio Lozano appeared, and having been informed of the foregoing, said that he heard it and would pay at once for the paper necessary for the copy therein referred to; and he signed before me, the secretary. I certify.

TORIBIO LOZANO.

BORREGO, *Secretary.*

On the 27th of the same month of October the copy above provided for was delivered to the citizen Toribio Lozano, and the present information was also delivered to him. [A flourish.]

The foregoing is a copy of the original now on file in this legation.

JOSÉ T. DE CUELLAR,
Acting Secretary.

WASHINGTON, *January 28, 1875.*

No. 453.

Mr. Fish to Mr. Mariscal.

DEPARTMENT OF STATE,
Washington, February 19, 1875.

SIR: I duly received and have taken into deliberate consideration your note of the 30th ultimo and the accompanying documents. It presents a claim against this Government for the alleged murder of Mexican shepherds on an estate belonging to Don Toribio Lozano, of Neuvo

Leon, Mexico, which estate is situated in Nueces, Texas, and for damages resulting therefrom. Though I have been much struck with the moderation, clearness, and fullness of your statement, I have not been able to reach your conclusion as to the accountability of this Government in the case referred to or in others of a similar character. I am not aware that any government is answerable in pecuniary damages for the murder of individuals by other individuals within its jurisdiction.

It is undoubtedly the duty of a government to prosecute such offenders according to law, by all means in its power. If this duty be honestly and diligently fulfilled the obligation of a government in such a case is discharged. Though the crime by which the Mexican shepherds are alleged to have lost their lives may not be without precedent, it seems obviously unreasonable, in view of the peculiar condition of the quarter where it was perpetrated, to expect that it would certainly be punished. This seems especially true when it is taken into consideration that, under the system of law which pervades this country, no person can be arrested upon suspicion of having committed a crime except upon the affidavit of a credible witness. The affidavit referred to must specify the name of the accused party. It is not alleged in your note that the course adverted to was pursued in this case. If it was disregarded voluntarily or through necessity, I cannot discern where the responsibility of this Government begins.

Mexicans in Texas and Americans in Mexico who engage in business near the border must not at present, or perhaps for some time to come, expect either government to insure them against all the risks inseparable from such enterprises. If the obligations of both governments under treaties and the public law are conscientiously fulfilled, nothing more, it is believed, can justly be looked for.

Accept, &c.,

HAMILTON FISH.

No. 454.

Mr. Mariscal to Mr. Fish.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
New York, March 8, 1875. (Received March 11.)

MR. SECRETARY: By the sworn statements, of which I have the honor to transmit copies with the present note, it will be seen that there are strong grounds for believing that Mateo Robles and Gabriel Leyva, citizens of Mexico, were assassinated in the territory of the United States, near the Rio Bravo, (*i. e.* Rio Grande,) these two murders being among the frightful number of crimes which have been committed with impunity in Texas, against Mexicans, during the year last past, and to which I referred in my note of January 30 in relation to the murder of seven shepherds.

Five witnesses, residents of the parish of Las Vacas, in the State of Coahuila, among them the associate judge of the parish, declare that it was a matter of public notoriety at San Felipe, Texas, that on the 24th of June, 1874, Mateo Robles was seized by two men, (one witness calls them sheriffs,) and taken on the 25th towards Las Moras, (also in Texas,) which place he never reached, and since that time nothing has been learned as to his whereabouts, although his wife went on the same

day to Las Moras and made diligent search for him. It was the general belief at San Felipe, according to the statements of the witnesses, and everybody spoke of it, that Robles had been executed, or rather secretly assassinated on the road.

As to Gabriel Leyva, the same witnesses depose that on the 30th day of the same month (June) an American, as they say, took him to the river, by order of the judge at San Felipe, and with the assistance of another, who joined him for the purpose, killed him in a ravine. The two men together then threw his body into the water, and the current carried it to a place near the right bank, where it was taken out by the witnesses. As to the manner in which Gabriel Leyva met with his death in Texas, the witnesses state that it was a matter of public notoriety at San Felipe.

No investigation was made by the competent magistrate of that place in regard to these outrages, nor was it probable that any would be made, if, as now seems to be the case, he was himself responsible for them. The governor of Coahuila brought the matter to the notice of the general government of Mexico, from which I have received instructions to present it to the consideration of the Department of State. The crimes in question belong, as I have already remarked, to a long series of outrages, the details of which are more or less well proved, but whose existence in general is not doubtful, and by which systematic hostility seems to me manifested towards the Mexican population by individuals and authorities in Texas.

Inasmuch as no steps have as yet been taken in that State by any Mexican consul, or representative of the injured parties, to secure the punishment of the parties who perpetrated the murders in question, or at least I not being aware that any such steps have been taken, my request to you, Mr. Secretary, is only for the present that you will be pleased to urge the government of Texas to cause the facts stated to be investigated and the guilty parties to be punished. I do not doubt that this will be done by the Government of the United States, in view of the spirit of justice which characterizes it, and of its friendly relations with the government of the Mexican Republic.

Be pleased to accept, &c.,

IGNO. MARISCAL.

[Inclosure.—Translation.]

Sworn statements in regard to the murders of Mateo Robles and Gabriel Leyva.

In the parish of La Resurreccion, on the 2d day of the month of October, 1874, I, the aforesaid judge of said parish, in accordance with my previous order, summoned to appear before me the citizen Yreneo Casillas, associate judge of the parish of Las Vacas, who having appeared, and having declared under oath that he would tell the truth, so far as he knew and should be questioned, and being questioned said that his name was as above written; that he was thirty-six years of age, a resident of the parish of Las Vacas, and associate judge of that parish. Being asked to give a detailed account of what he knew or had seen relative to the murder of Mateo Robles and Gabriel Leyva, committed by inhabitants of Texas, according to information received from the citizen president of the town-board of Piedras Negras, he said: On the 24th day of June last Mateo Robles crossed the Rio Bravo, for the purpose of going to see his mother, who was at San Felipe, Texas, and on the same day, at that place, he was seized by several armed Americans, who started off with him by the road which leads to Las Moras, which place is also in Texas. His wife, on seeing him taken off in that manner, started for Las Moras also, where as soon as she arrived she instituted a diligent search for him, but did not find him. She returned to San Felipe inquiring, as was natural, as to his whereabouts. She heard nothing of him, however, nor has anything yet been seen of him, and it is very probable that the Americans, who seized him, killed him; this is generally believed to have been the case. As to Gabriel Leyva, the citizen

Fernando Sandoval, who was acting as magistrate in the absence of deponent, received information from a young man that the body of a man was lying on the bank of the Rio Bravo, on this side. He went, in company with three men, to remove it, which he did, informing this deponent on his return, and an official report was transmitted to the president of the town-board of Piedras Negras. This deponent has nothing more to say in relation to this matter, except that the widow of Mateo Robles bears the name of Dionisia Reyes, and that the foregoing is the truth. His statement was read to him, and he ratified it and signed it with me, the judge, and the assisting witnesses. We certify.

JOSÉ ANGEL MALDONADO.
YRENEO CASILLAS.

F. RAMON,
VENTURA RAMOS,
Assisting witnesses.

I, the aforesaid judge, next summoned the citizen Fernando Sandoval, and he, having appeared, made oath in due form that he would tell the truth so far as he knew and should be questioned, and being questioned he said: "My name is as above; I am fifty-three years of age, married, and a resident of the parish of Las Vacas, and by occupation a farmer." Being asked to tell what he knew and had seen in connection with the murder of Mateo Robles and Gabriel Leyva, he said: "It is public and notorious that the aforesaid Mateo Robles was taken from San Felipe by several Americans, and led off in the direction of Las Moras, which place they did not reach with him; and it is very probable that they killed him on the way, for he has not been seen since. His wife has sought for him diligently, and has now given up all hope of finding him. This she says to all persons who speak with her. As to Gabriel Leyva, I was informed by a young man, while I was acting for the associate judge, during the temporary absence of that officer, that a dead body was lying on the right bank of the Rio Bravo. I went to the spot at once, accompanied by three men, viz, Manuel Garza, Felix Valdez, and Hilario Martinez. We found the body of a man in the water, and on taking it out and examining it we found a wound, caused by a bullet, in the back, on the left side. After finishing our examination we buried the body. The name of the deceased was Gabriel Leyva. He was a resident of San Felipe, Texas, and on St. Peter's day, *i. e.*, the 29th of June last, an American brought him, by order of the judge of that place, to the bank of the river, in order to cross to this side; and the said American, together with another who had joined him on the way, took him to a ravine, where they killed him and threw his body into the water. The body was carried by the current to the island where we found it. This is a matter of public notoriety, and is known to all the inhabitants of San Felipe. They talk of it there, and many of them speak of it when they come over to this side. This is all I have to say on the subject, and it is the truth according to the oath taken by me." His statement was then read to him, and he ratified it and signed it with me, the judge aforesaid, and the assisting witnesses. We certify.

JOSÉ ANGEL MALDONADO.
FERNANDO SANDOVAL.

A. F. RAMON,
VENTURA RAMOS,
Assisting witnesses.

The citizen Manuel Garza, having appeared in obedience to the summons of the court, declared, under oath, that he would tell the truth so far as he knew and should be questioned. He said: "My name is as above; I am fifty-six years of age; married; a resident of the parish of Las Vacas, and a farmer by occupation. With regard to Mateo Robles, it is a matter of public notoriety that several Americans seized him at San Felipe, Texas, from which place they started with him in the direction of Las Moras, which place is likewise in Texas, but which they did not reach with him, and it is very probable that they killed him, for he has not been seen since. As to Gabriel Leyva, it is likewise a matter of public notoriety in the town of San Felipe that an American, acting under orders of the judge, seized him for the purpose of crossing the river with him. On the way they were joined by another American, and the two killed Leyva and threw his body into the river, out of which it was taken by four men, of whom I was one. On examining him, we found that he had been shot in the back with a bullet. This is all I have to say on the subject, and it is the truth according to the oath taken by me." The foregoing statement was read to him, and he ratified it, but did not sign it on account of his inability to write. I, the judge, signed with the assisting witnesses. We certify.

JOSÉ ANGEL MALDONADO.

F. RAMON,
VENTURA RAMOS,
Assisting witnesses.

The citizen Felix Valdez, having appeared in obedience to the summons of the court, declared, under oath, that he would tell the truth, so far as he knew and should be questioned, and, being questioned, he said: "My name is Felix Valdez; I am 23 years of age, unmarried, a resident of the parish of Las Vacas, and by occupation a tiller of the soil." Being requested to tell all he knew in relation to the murder of Mateo Robles and Gabriel Leyva, by inhabitants of Texas, he said: "As the inhabitants of San Felipe, Texas, are in constant communication with those of the parish of Las Vacas, all that happens in one place is soon known in the other. In regard to the murders in question, it is very well known that Mateo Robles was taken from San Felipe by several Americans in the direction of Las Moras, both places being in Texas, and that he was undoubtedly killed by them on the way, because the Americans arrived at Las Moras without their prisoner, and the wife of the latter has made every possible effort to learn his whereabouts, but without success. As Gabriel Leyva, three other men and I myself took his body out of the Rio Bravo, in which it was lying; it had a hole, made by a bullet, in the back. Said Leyva was seized by an American in pursuance of an order of the judge at San Felipe to be taken across the river to Mexico. On the way they were joined by another American, and the two took Leyva to a ravine near the river and killed him, after which they threw his body into the water; the body floated over to an island on this side; a young man saw it, and reported the fact to the acting associate judge, who, accompanied by three men, myself among the number, repaired to the spot where the body lay; on examination it was found that it had a wound, caused by a bullet, in the back. I repeat that the facts stated by me are matters of public notoriety, and I can vouch for their truth." He ratified the foregoing statement, but did not sign it on account of his inability to write. I, the judge, did so, with the assisting witnesses. We certify.

F. RAMON,
VENTURA RAMOS,
Assisting Witnesses.

JOSÉ ANGEL MALDONADO.

The citizen Hilario Martinez having appeared in obedience to the summons of the court, and having declared under oath that he would tell the truth, as far as he knew and should be questioned, and being questioned said: "My name is Hilario Martinez; I am twenty-six years of age, unmarried, a resident of the parish of Las Vacas, and by occupation a tiller of the soil." Being requested to tell all he knew in regard to the murder of Mateo Robles and Gabriel Leyva, he said: "Several Americans seized Robles in San Felipe, Texas, for the purpose of taking him to Las Moras, at which they arrived without their prisoner. The wife of the latter, when he was taken from the town, started after them, and as soon as she saw that the Americans who had seized her husband entered Las Moras without him, she made inquiry for him, but without success; nothing has ever been heard of him since, and it is very probable that he was killed. Gabriel Leyva was taken from San Felipe by an American, by order of the judge, that he might be taken across to Mexico; on the road another American came up, and both together took him to a ravine of the Rio Bravo, and there shot him, and threw him into the water; the body floated over to an island on this side of the river; a young man came and told the acting associate judge of this, and he, together with three other men, of whom I was one, repaired to the spot for the purpose of taking him out of the water. On examination it was found that the body had a wound, caused by a bullet, in the back. All the foregoing is very well known at San Felipe. I have nothing more to say. The foregoing is true, according to my oath." His statement having been read to him he ratified it, but did not sign it on account of his inability to write. I, the judge, did so, with the assisting witnesses. We certify.

F. RAMON,
VENTURA RAMOS,
Assisting Witnesses.

JOSÉ ANGEL MALDONADO.

PIEDRAS NEGRAS, October 5, 1874.

I, the judge, having returned from the parish of La Resurreccion, which I visited for the purpose of taking the foregoing testimony, in obedience to superior orders, hereby order that the said testimony be sent to the citizen president of the municipal board of this town, to the end that it may be transmitted by him to the governor of the State. In witness whereof I, the aforesaid judge, have signed the present document, with assisting witnesses, as required by law.

We certify.
F. RAMON,
VENTURA RAMOS,
Assisting Witnesses.

JOSÉ A. MALDONADO.

Testimony sent as ordered. In witness—
[Seal of the court.]

[A flourish.]

PIEDRAS NEGRAS, *October 10, 1874.*

As required by the judge of Piedras Negras, I hereby order that the present document be transmitted to the governor of the State for his information. So ordered by me, the citizen Jesus del Valle, second alderman of the municipality above mentioned, and acting as president. Signed by me with the clerk of the municipality.

JESUS DEL VALLE.

MANUEL VALDEZ, *Clerk.*

Sent as ordered. In witness—

DEL VALLE. [A flourish.]

I certify the above to be a true copy of the original.

JUAN A. VIESCA, *Clerk.*

SALTILLO, *November 4, 1874.*

A copy.

JOSÉ T. DE CUELLAR,
Acting Secretary of Legation.

NEW YORK, *March 8, 1875.*

No. 455.

Mr. Mariscal to Mr. Fish.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
New York, March 9, 1875. (Received March 11.)

MR. SECRETARY: I have had the honor to receive your note of the 19th ultimo, whereby you were pleased to reply to mine of the 30th of January relative to the murder of seven Mexican shepherds, which was committed in Nueces County, Texas. You had the courtesy to praise in your note the moderation, clearness, and fullness, as you express it, of the statement which I made of the case; adding that you were unable to understand my conclusion in regard to the responsibility of the Government of the United States in the matter.

"I am not aware that any government is answerable in pecuniary damages for the murder of individuals by other individuals within its jurisdiction." In these words of the note, to which I have the honor to reply, is set forth, I think, the principal reason why you consider as without foundation my request that the families of those shepherds, and the owner of the estate on which the crime was committed, might be indemnified for the injury done them. The principle laid down in the above passage is an unquestionable truth, and for my part I am very far from wishing to dispute it. I did not claim that the mere fact of the shepherds having been murdered by Texans, who so far as is known were not acting in a public capacity, obliged the Government of this country to furnish redress for any injuries caused by that crime. No, indeed; the ground which I proposed to state for such obligation was the denial of justice, or rather the absolute lack of its administration in the case, as I endeavored to explain in my aforesaid note; no effort was made for the detection of the criminals, although their detection would have been very easy in view of the circumstances adverted to by me. I stated that the Mexican consul at San Antonio had taken measures, although without success, to secure an investigation of the matter and the punishment of the offenders; similar steps were likewise taken by the consul of Mexico at Brownsville, with the same result.

You were pleased to observe that it is the duty of a government, in

cases like the present, "to prosecute such offenders according to law, by all means in its power. If this duty," you very justly add, "be honestly and diligently fulfilled, the obligation of a government in such a case is discharged." I agree to these propositions entirely; but in my judgment they condemn the more than negligent conduct of the Texan authorities, including the chief magistrate of the State, its governor, who admitted the inefficiency of the laws in Nueces and other counties, and put an end by his insinuations to all hope of obtaining justice.

It would certainly not be reasonable to expect that, in that portion of Texas, where the most perfect order does not prevail, all criminals should be punished to the full extent of the law; it was not, however, unreasonable to ask that the authorities should show some zeal in discovering the perpetrators of a crime which had caused so great scandal and alarm. Nothing, however, was done for that purpose, or even to save appearances. No witnesses were examined and no investigation was made, although there was an abundance of circumstantial evidence in the place where the crime was committed, in those adjoining, and in the village to which the murderers had gone, as appeared from their tracks or those of their horses.

The system of legislation which prevails in the whole country, as you are pleased to observe, does not permit a person to be arrested without a sworn statement made against him by a credible witness; and in the present case it is probable that those immediately injured did not present such evidence against any particular person. The laws of this country, however, are too enlightened not to accept as sufficient the action of injured parties in the investigation of grave crimes. In this instance the injured parties, the families of the murdered men, resided in a foreign country, as did also the owner of the estate, who only went for a moment to Texas to learn the nature of the disaster, and who fled in dismay when he found how matters stood. It was the duty of the authorities to investigate a fact so well known, which had been published and commented upon by the newspapers, and they would have been more zealous if they had really desired to punish the murderers, so as to avoid at least the charge of culpable weakness or connivance with the criminals. Nevertheless, weeks and months passed and nothing was done. The Mexican consuls presented respectful complaints, and still nothing was done until the governor replied in an unsatisfactory manner that the best way for Mexican stock-men and shepherds to secure their own safety was not to reside in that portion of the country.

It is not my intention, Mr. Secretary, to trouble you with long reflections on this subject. What I have stated will suffice to show the ground of the request with which, in the name of my government, I concluded my previous note in support of the claims of Toribio Lozano and of the families of the seven murdered shepherds. I might quote in support thereof the authority of some writer on international law, or of some precedent in a similar case, in order to show the responsibility of a government in cases of denial of justice; it does not, however, seem necessary to me to make such quotations at present, which must certainly be sufficiently well known to you. I feel confident, moreover, that the Government of the United States will become convinced of the justice with which it is asked to redress an injury caused by culpable negligence on the part of the authorities of Texas.

I avail, &c.,

IGNO. MARISCAL.

No. 456.

*Mr. Fish to Mr. Mariscal.*DEPARTMENT OF STATE,
Washington, March 18, 1875.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, alleging that two Mexicans, named Mateo Roble and Gabriel Leyva, respectively, were, some time since, murdered in Texas. In proof of this charge, your note is accompanied by the affidavits of certain persons, no one of whom, however, claims to have witnessed the homicides. They all speak of them as matters of public notoriety. Even the names of the supposed culprits are not mentioned. It seems clear that testimony of this character can scarcely be made the basis of any specific proceeding. It is noticed, too, that Leyva is said to have been carried to the bank of the Rio Grande by order of a judge in Texas. This statement, likewise, is so incredible on its face as to serve as its own refutation. It may be affirmed with confidence that the punishment of banishment is not provided for any offense which may be committed in Texas. Without such a provision, no judge there would take upon himself the infliction of such a penalty.

As the purpose of your communication, however, is that the attention of the governor of Texas may be invited to the subject, I have the honor to add that this Department has addressed a letter to him in regard to it.

Accept, &c.,

HAMILTON FISH.

No. 457.

*Mr. Fish to Mr. Mariscal.*DEPARTMENT OF STATE,
Washington, March 18, 1875.

SIR: I have had the honor to receive your note of the 9th instant upon the subject of the alleged murder of certain Mexican shepherds in the western part of Texas. You allege that neglect to prosecute the offenders would be a denial of that justice which your government has a right to expect. Your allegation is entirely concurred in. It is not perceived, however, where the neglect imputed began, or who have been guilty of it.

A large part of the State of Texas is but very sparsely peopled; and in that remote and extended region the police is small in the same proportion with the population, and there, as in all regions similarly situated, the prevention, detection, and punishment of crime is difficult, if not, at times, impossible.

The character of a border population in such country, comprising but too often lawless persons of the nationalities of each of the coterminous states, and refugees from the laws of all nationalities, who alternately assume the character of citizens of either of the bordering states, so notoriously adds to the difficulty of maintaining order and enforcing laws, that those who voluntary seek residence or resort thither must be presumed to be aware of the risks thus incurred.

But if, as is alleged, murders have been committed, the same rules of evidence, in regard to crimes charged to have been committed in that quarter must be applied as would be applicable to their commission in the more densely peopled parts of the State, where, it may be presumed, the law may be executed with greater facility and certainty.

You will do me the justice to believe that if the Mexican shepherds were murdered, as you allege, no one would deplore it more than myself, or would do more towards having the guilty parties prosecuted according to law.

A copy of your note on this subject shall be communicated to the governor of Texas, and his attention shall be seriously invited to the subject.

Accept, &c.,

HAMILTON FISH.

No. 458.

Mr. Mariscal to Mr. Fish.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
New York, March 29, 1875. (Received March 31.)

MR. SECRETARY: I have the honor to acknowledge the receipt of the note which you were pleased to address me under date of the 18th instant, in reply to mine of the 9th, in relation to the murder of seven Mexican shepherds in Texas. In that reply the right of my government is recognized to consider as a denial of justice the neglect to take any steps for the apprehension of the perpetrators of these murders; it is added, however, that it does not appear where that neglect commenced, or who is responsible therefor.

I think it would be easy to demonstrate that the neglect commenced when the Texan authorities received information of the facts, which were published soon after the commission of the outrage, or perhaps as soon as they had knowledge that such an outrage was in contemplation, since there is ground, at least, for the suspicion that they had such knowledge, without doing anything in the matter, except that the coroner, after some delay, declared, through a jury, that those men had been hung on trees.

As to any reflections, however, that I might make on the subject, examining the circumstances of the occurrence, or the connection which the situation of Texan has with the case, I consider that they have already been made in my previous notes, and that I ought not to occupy your attention unnecessarily.

For these reasons, and since, as you are pleased to inform me, a copy of my letter on the subject is to be transmitted to the governor of Texas, calling his serious attention to the matter, I shall inform my government of this fact, and, shall await its instructions, without withdrawing the claim which I have had the honor to present to the Government of the United States in behalf of Lozano and the parties represented by him.

Before concluding, allow me to make an explanation which seems to me to be opportune. You are pleased to ask me to do you the justice to believe that you are the first to condemn the atrocities to which I

allude, and to desire the punishment of their perpetrators, if they were really committed. I take pleasure in making the sincere declaration that I am most thoroughly convinced of this, for which reason I feel fully confident that the honorable Secretary of State, when the case shall have been made sufficiently clear to his mind, cannot fail to do justice to my government.

I avail myself, &c.

IGNO. MARISCAL.

No. 459.

Mr. Fish to Mr. Mariscal.

DEPARTMENT OF STATE,
Washington, April 6, 1875.

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, relative to the alleged murder of certain Mexican shepherds in the western quarter of Texas. It assumes that in the note of this Department, of the 18th ultimo, the right of your government to consider that there has been a denial of justice in the matter is acknowledged. This assumption, however, is believed not to be warranted by the phraseology of that note. Murder, in this country, can only be prosecuted upon information, under oath, as to the fact and as to the perpetrators. This Department is not aware that there has been any such information in this case. Had there been, and had the proper authorities then refused or neglected to prosecute the offenders, there would have been ground for the charge that there had been a denial of justice. At present there has been no such denial, as there has been no application in that shape only in which it can legally be entertained.

I avail myself, &c.

HAMILTON FISH.

No. 460.

Mr. Mariscal to Mr. Fish.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
New York, April 17, 1875. (Received April 22.)

MR. SECRETARY: I have the honor to reply to your note of the 6th instant, in relation to the claim of my government on account of the murder of some Mexican shepherds in Texas, and to remark that in my previous note on this subject it was not my intention to say that your Department had recognized the right of Mexico to consider that there had been a denial of justice in the case.

I only said that the right had been recognized of considering the neglect to prosecute the criminals in this case as such a denial, omitting to add in the same sentence that that recognition was merely hypothetical, for the *de facto* existence of the neglect to which I refer has not in reality been recognized. I merely desired to have the fact settled that your Department agreed with me, that the simple neglect to prosecute

the criminals in question would constitute, in itself, a denial of justice, without any necessity of a positive act denying a legal remedy, or of a specific omission in respect to an application for such remedy.

Such, indeed, seems to be the sense of certain words contained in the aforesaid note of your Department, which I take the liberty of transcribing here only for the purpose of showing the spirit by which I have been actuated in referring to the contents of said note.

They are as follows: "You allege that neglect to prosecute the offenders (*i. e.*, the murderers of the shepherds) would be a denial of that justice which your government has a right to expect. Your allegation is entirely concurred in." Hence I inferred, not that the existence of the denial of justice was recognized, but that the principle was admitted that it would exist whensoever there should be neglect to prosecute the guilty parties. Now, such neglect may consist in the failure of the authorities to bring them to trial when they are discovered, or in their not trying to discover them by all the means used by public authorities in civilized countries (such as Texas doubtless is) for the discovery of the perpetrators of any crime which is not a mere injury or offense of a private character, as murder never has been.

What confirmed me in the opinion that your Department did not restrict the sense of the phrase to which I allude in such a manner as to exclude neglect in regard to the discovery of the criminals, was the fact of its referring without any restriction to what I alleged in my note of March 9, in which I spoke of this very neglect of the Texan authorities to endeavor to discover the murderers. Moreover, the honorable Secretary, in the same note, saw fit to make some allusion to the peculiar condition of the frontier, where the prevention, punishment, or discovery of crimes was very difficult, perhaps impossible, and I thought that the purpose of this allusion was to show that the special neglect which I supposed to have existed had not existed in fact, while it was not denied that if it had existed it would have constituted a denial of justice.

These, Mr. Secretary, were the reasons why I supposed the principle to be admitted that absolute neglect to examine who were the criminals would be considered as equivalent to unwillingness to try them in case they should be discovered. Nevertheless, in the note to which I now have the honor to reply it is said that inasmuch as no complaint supported by a sworn statement in regard to the crime and the criminals has been made, there can have been no denial of justice. I regret that I cannot subscribe to this principle, to which I will take the liberty, for the present only, to advance a few objections.

It appears that all the justice that can plainly be derived from international law, and especially that which is defined as justice by the laws of the country, may be claimed by a foreigner. If, therefore, the authorities in Texas are under the natural and legal obligation to try to discover certain criminals, the absolute neglect to fulfill this obligation when foreigners have been the victims of the crime gives to the government of such foreigners the right to consider that justice has been denied them. Besides, if, in the case of the murder of a foreigner, the public authorities were not under obligations to take measures for the detection of the murderer, the latter would irremediably remain unpunished, because a foreigner usually leaves no relatives or friends willing to undertake the task of furnishing evidence in regard to the crime, and the difficulty is greatly increased in a country in which a vulgar prejudice prevails against a certain class of foreigners, such as has been manifested in Texas against the Mexicans.

I shall content myself, Mr. Secretary, with submitting these brief considerations to your enlightened judgment. I had proposed to suspend the discussion of this matter until I should receive further instructions from my government, in view of the communication which I was informed was to be addressed to the governor of Texas; the tenor of the last note from your Department, however, obliges me to make the above explanation, and to state the foregoing views, to the end that the question may, if possible, remain in the state in which I supposed it to be; that is to say, the principle to which I referred being recognized and the existence of culpable neglect being denied.

Be pleased to accept, &c.,

IGNO. MARISCAL.

No. 461.

Mr. Mariscal to Mr. Fish.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
New York, June 18, 1875. (Received June 21.)

MR. SECRETARY: I have had the honor to receive your note of the 10th instant, in which, referring to mine of May 5, 1874, you were pleased to inclose a copy of a communication of the 9th, addressed to you by the honorable Secretary of the Interior, together with several inclosures, the whole relating to the depredations committed in the State of Sonora by Indians from a reservation in Arizona.

In the report of the commissioner, L. Edwin Dudley, I observe that, although he admits that by reason of having made no investigation of the matter he is unable to report upon it with accuracy, he thinks that much of the damage complained of by the people of Sonora is caused by Apaches living in Sonora, and is due to a desire to have the general government of Mexico continue to furnish a subsidy to that State to enable it to defend itself against the Indians, which subsidy he supposes has ceased to be furnished. Without critically examining this report, for the present I shall confine myself to transmitting its contents to my government, and to asking for instructions on the subject.

If, meanwhile, the President of the United States should decide to establish a military post in the southern portion of the Chiricahua reservation, or to adopt some other means of remedying the evils to which I referred in my aforesaid note of May 5, 1874, I will thank you if you will have the kindness to inform me to that effect, that I may transmit the information to my government.

I reiterate, &c.,

IGNO. MARISCAL.

No. 462.

Mr. Mariscal to Mr. Fish.

[Translation.]

LEGATION OF MEXICO,
New York, July 23, 1875. (Received July 26.)

MR. SECRETARY: I have the honor to inclose to you a copy of a note addressed to me by the minister of foreign relations of my government,

in which is inserted a communication from the governor of the State of Sonora relative to the entrance of several armed men from Arizona into Mexican territory, who apprehended a fugitive named J. Holmes within the limits of the said State.

In obedience to the instructions contained in said note, I beg leave to call your attention to the matter in question, and to express the hope that the Government of the United States will adopt suitable measures for its repression, (*sic*,) thus preventing the repetition of an abuse committed, perhaps, without any intention of outraging the Mexican nation, but which might at some time give rise to disagreeable consequences on the frontier, despite of the good understanding which happily exists between the governments of the two republics.

I am happy to renew, &c.,

IGNO. MARISCAL.

[Inclosure.—Translation.]

Mr. Lafragua to Mr. Mariscal.

CITY OF MEXICO, June 29, 1875.

The governor of the State of Sonora writes me under date of the 31st of May last as follows:

“By the documents, of which I have the honor to inclose copies to you, you will see that two Americans, named Joseph Phy and Thomas Hayes, having come from Arizona Territory, United States, entered the district called Del Altar, where they arrested by violence one Joseph Holmes, also an American, at a place called Galerita, within the limits of this State.

“The arrest took place on the 17th ultimo, at about 4 o'clock in the afternoon, in presence of an American named James Walters and two Mexicans, with the acquiescence of several other citizens, as appears from the investigation held, the original report of which is retained by this government for the purpose of having it completed for the necessary purposes as regards the guilt attributed to the said Mexicans. And although it thereby appears that Holmes fled before his captors from the Territory of Arizona and returned to the house of Walters, with whom he was serving in that district, the fact is that this arrest is, to all intents and purposes, an offense against our nationality, committed by citizens of the United States; and, in view thereof, I have recourse through you to the citizen President of the Republic for such determination as may be deemed proper for the prevention of similar abuses, and the results which might arise from the non-observance of our treaties.”

Which I transcribe to you, in order that you may be pleased to request the Government of the United States, to ask, in extradition cases, for the extradition of the fugitive, in accordance with the treaty, and to repress those who have violated the national territory.

I renew to you the expression of my sentiments of esteem and consideration.

LAFRAGUA.

The CITIZEN MINISTER OF MEXICO,

In the United States of America, Washington, D. C.

A copy:

JOSÉ T. DE CUELLAR,

Secretary.

NETHERLANDS.

No. 463.

Mr. Gorham to Mr. Fish.

No. 165.]

LEGATION OF THE UNITED STATES,
The Hague, November 9, 1874. (Received December 4.)

SIR: The late liberal ministry of The Netherlands has been severely censured by its political opponents, and but half excused by a portion

of its friends, for the passage of a law in November, 1872, reducing, from and after January 1, 1874, the duty on sundry articles, including tea and coffee, exported from the Dutch East Indian colonies, from a standard affording considerable revenue to a nominal tax of little account.

The theory of the ministry was, it is fair to presume, that in the event of trouble, already foreshadowed, threatening to their colonial interest in the East, the position of the government would be better for having legislated acceptably to foreign powers in the removal of commercial restrictions at their colonial ports. And although the United States, after resolving to admit free tea and coffee, irrespective of country where grown or whence brought, had subsequently imposed a tax of 10 per cent. on the indirect importation of those articles if produced in countries east of the Cape of Good-Hope, the opinion was cherished that this discrimination would be early relinquished in acknowledgment of the advantages derived from the measure in question.

Members of the late cabinet, especially the minister of foreign affairs and the minister of colonies, frequently referred to what they termed the ungenerous feature of our tariff legislation in respect to their interest, assuring me that it was occasioning much uneasiness in commercial circles, and thereby greatly annoying the ministry. They hoped I would represent the matter to my Government in a manner calculated to secure the desired relief.

In compliance with numerous solicitations, I took the liberty of calling your attention to the subject in the month of February, 1873, though I usually referred to their minister at Washington as the medium through which they could the most suitably present their complaint. To moderate their expectations, I sometimes reminded them, on such occasions, of our crippled carrying trade, and overtaxed Treasury, each demanding aid from every legitimate source at the disposition of the Government.

I am led to refer to the subject, at this time, from seeing in the leading conservative journal of the city this morning a lengthy article avowedly reflecting the views of the new minister of colonies on the colonial question generally, wherein allusion is made to the policy of abolishing duties for the accommodation of other governments, with no assurance of an equivalent; and, also, because I learn from another source, that a committee of the chambers, having under consideration the same subject, a day or two since, a proposition to recommend the restoration of the former rate of export-duty on coffee was favorably received, mainly on the ground that the expectation of the government had not been met on the part of the United States.

Whether it would be better for us to maintain the discrimination complained of, and pay their former differential duty of 9 per cent.—if I remember—than to repeal our law and pay the present nominal tax of 3 florins per 100 kilograms on their coffee, I am not prepared to say. Neither do I know that the old rate will be restored; but being aware that discontent has long prevailed in respect to the results of their law and the inconvenience of ours, I think it more than probable that a change will be made in the course of the winter, unless some hope of an easy modification of ours should reach their ministry in time to prevent it.

I am, &c.,

CHARLES T. GORHAM.

No. 464.

Mr. Gorham to Mr. Fish.

No. 170.] LEGATION OF THE UNITED STATES,
The Hague, December 19, 1874. (Received January 11, 1875.)

SIR: The King, to-day, formally accepted the resignation of Mr. Loudon, as governor-general of the Dutch East Indies, and appointed in his place Mr. Van Lansberge, Dutch minister at the court of Belgium since June, 1871.

Loudon was appointed for the usual term of five years. Why he retires, after an experience of only about three, is at this moment a matter of conjecture. When sent out he was regarded as eminently qualified for the governorship, so that his friends predicted for him even a brilliant career. He soon became unpopular with the army, and with the local press, receiving from each source more or less damage. Regarding colonial measures generally, he is reputed to have been in hearty accord with the late minister of colonies, but scarcely so with his successor. His dismissal, however, as I am informed by the minister himself, is wholly at his own request.

Mr. Van Lansberge is considerably experienced in diplomacy, for a man of his years, and is thought to possess administrative and other qualities equal to the duties of his new position. It will be fortunate for the government if these expectations are realized, for, if I mistake not, its affairs in the East require, at this time, the most careful and judicious supervision.

I am, &c.,

CHARLES T. GORHAM.

 No. 465.
Mr. Gorham to Mr. Fish.

No. 173.] LEGATION OF THE UNITED STATES,
The Hague, December 26, 1874. (Received January 26, 1875.)

SIR: While the portion of the annual budget relating to foreign affairs was under discussion in the chamber of deputies a few days since, a motion was introduced by a prominent member of the "peace league," pledging the government to the principle of arbitration for the adjustment of international misunderstandings, and to an effort to secure a clause in that sense whenever practicable in future treaties.

The motion was similar to the one voted by the English House of Commons last year at the instance of Mr. Richard, who, soon after the adjournment of Parliament, visited the continent, held public meetings at the Hague, Brussels, and many other places, assisted at some of them by David Dudley Field, of New York, for the purpose of explaining his views and providing for their dissemination. He was favorably noticed by the press, and his efforts appear to have made some impression on the law-makers of the Netherlands.

In support of the proposition, vivid pictures were drawn contrasting the horrors of war with the blessings of peace. War was represented as being irreligious, inhuman, and uncivilizing; Europe as supporting six millions of soldiers, at an annual cost of six and a half milliards;

the public debt of Europe as having increased eighteen milliards during the past twenty-two years, of which 88 per cent. had been occasioned by war; two-fifths of the Netherlands' annual budget for the maintenance of the national defense, and all, or nearly all, for the want of a proper understanding among the professedly Christian powers of the world respecting the adjustment of international troubles.

No expectation was entertained that a custom so long regarded by all nations as the only method of settling controversies arising from real or fancied injuries would immediately give place to the pacific policy under consideration; though it was less utopian to look for it than it was formerly to expect liberty of conscience or the abolition of slavery. At any rate, the principle of arbitration having been indorsed by the United States, England, Italy, and Switzerland, its general recognition should be regarded only as a question of time.

Against the proposition, it was urged that it did not harmonize with the 1856 treaty of Paris; that Italy had but partially recognized it, having refused to adopt the principle of arbitration to conflicts unknown; that the Alabama case, so frequently referred to as an encouraging precedent by the advocates of the measure, was attended with innumerable difficulties, and that the final result was anything but satisfactory to one of the parties concerned.

The minister of foreign affairs deprecated the readiness of governments to declare war, but had little faith in expedients to prevent it, adding that, since the treaty of Paris in 1856, there had been war in Italy, Denmark, Germany in 1866, and in France and Germany in 1870. The Netherlands being only a state of the second rank, he would be unwilling to take the initiative, but was ready to co-operate in all measures calculated to advance the interests of humanity.

A vote being called for, the motion prevailed by 35 against 20. The budget was then voted unanimously.

I am, &c.,

CHARLES T. GORHAM.

No. 466.

Mr. Gorham to Mr. Fish.

No. 189.]

LEGATION OF THE UNITED STATES,
The Hague, May 25, 1875. (Received June 11.)

SIR: The second chamber of the States-General has been in session, nominally, for two or three weeks, but as the principal business brought under consideration must first be elaborated by some one of the various sections, (committees,) little of moment has yet transpired in full session.

The minister of colonies, being interrogated at a short session a few days since respecting the army in the Indies, stated that, on the 1st of November, 1872, it numbered 28,000; 1st of November, 1873, 30,131; 1st of November, 1874, 31,168.

Referring to the second expedition to Atchin, he said that it was composed at first of 118 officers and 3,262 men; increased in August to 163 officers and 4,466 men, and in December to 6,010, including officers and men.

The loss by death at Atchin, he said, had been 1,196 in seven months.

Unfavorable reports respecting the health of the troops had made recruiting difficult, but the government, according to the minister, had procured and sent to the Indies 4,282 men in 1873; 1,819 in 1874; and 1,095 in 1875; also about 300 marines.

He also stated that to the question "What is the present situation?" put to the commander of the army on the 20th of March last, he received in reply, among other things, that the troops were well provisioned; that the arrival of re-enforcements was irregular; that the enemy seemed discouraged, made no more advances, and that the coast districts had generally recognized the sovereignty of the Netherlands.

I am, &c.,

CHARLES T. GORHAM.

No. 467.

Mr. Gorham to Mr. Fish.

No. 192.]

LEGATION OF THE UNITED STATES,
The Hague, May 28, 1875. (Received June 14.)

SIR: The second chamber, yesterday, by a vote of 43 to 16 adopted, mainly, the recommendation of the minister of finance for the introduction of gold as a money standard from and after the 1st of July next.

His project contemplated the coinage of 5 and 10 florin pieces, but carried only respecting the latter.

Several attempts were made to assimilate the value of the new coin to that of Germany or France, but without avail; the florin is retained as the unit of account.

I am, &c.,

CHARLES T. GORHAM.

No. 468.

Mr. Gorham to Mr. Fish.

No. 193.]

LEGATION OF THE UNITED STATES,
The Hague, June 12, 1875. (Received July 8.)

SIR: The constitution of the Netherlands provides that the second chamber of the States-General shall be partially renewed every alternate year by the election of one-half of its members. This body, since the election of two years ago, has been equally divided between the liberals on one side, and conservatives, orthodox Protestants, and Catholics, on the other, the religious sections, though differing essentially on religious dogmas generally, practically unite in an effort to change the government's system of primary instruction.

Under a law of 1857, children of whatever creed, or of none at all, are admitted to equal advantages in the public schools, with a view to a secular education, but nothing more. The schools are maintained at the expense of the municipalities, except in a few localities where the general government aids pecuniarily to a limited extent. School teaching is a career entitling a superannuated teacher to a moderate pension.

The system appears to have given satisfaction for awhile, and it is difficult to understand why complaint should be made of it now. Each annual report bears proof of its efficiency in showing a decreasing per cent. of untaught children, and of unlettered persons below a certain age. Still, here, as in most countries in Europe—and to a small extent in our own—an idea is cherished that in some mysterious but positive sense the state and church are divinely wedded, and that fearful calamities will sooner or later be visited upon all governments sanctioning their divorce. The times are not propitious for securing directly more intimate relations between them, but the principle is involved in the school question now at issue in so many quarters, and hence the effort being made by the religionists referred to—here called clericals—to increase their political power in the hope of controlling the educational interests of the country in a manner to serve equally well their sectarian aims.

The orthodox Protestants say, "Our children must be accustomed to the daily reading of the Bible." "Ours must be educated in the faith of the Catholic Church," say the Romanists, "and since they cannot be under the present arrangement, refund the money we now pay for educational purposes that we may support schools consistent with our creed," say both, thus practically uniting to enfeeble, if not destroy, the common-school system of the country.

It is a noticeable circumstance that the fiercest attacks are from orthodox Protestants. Though less numerous than the Catholics, who dominate in at least three of the eleven provinces, they supply in zeal what they lack in numbers. They are ably represented at this time by Dr. Knyper, formerly a clergyman at Amsterdam, now a member of the second chamber. Some months ago he published in a leading journal of his party a detailed plan, under the title of "Restitution," for paying back to the "clericals" taxes collected for school-purposes. A little later, venturing to interrogate the minister in order to determine the prospect of his scheme, he was distinctly informed that "restitution" would receive no encouragement from the government.

It is creditable to the several cabinets through which the government has been administered during the past few years, embracing ordinarily members of different creeds, that no encouragement has been given to sectarian schemes or disposition evinced to direct legislation in a narrow or illiberal sense.

There is, however, an impression on the part of many that a settled purpose pervades the Catholic portion, now comprising two-fifths of the population of the Netherlands, to secure political control at whatever expense. Recent events have more than ever brought the papacy into consideration as a political power capable of interfering with the lives of nations—as a force which may become a powerful ally to one, a relentless foe to another. People are saying that the ultramontanes have a hand in every intrigue; that there is settled mischief in the counsels of the Vatican, and that the next war will be so far a religious war that the priesthood, and all who obey them, will be found, actually or in sympathy, on the same side.

True or false, these impressions are dividing the people into clerical and anti-clerical parties, obliterating other distinctions and forcing men desiring official positions to choose between the two. The election held on the 8th instant was sharply contested on this basis, though nominally under old party banners.

Neither side will have gained or lost, however, if the three or four ballotings to be repeated on the 22d result according to general expectation. The liberals claim a moral victory in gaining two members at

Amsterdam against two lost in places of less importance. Dr. Knype was re-elected at Gonda by the united efforts of the clericals. The ministry is likely to be, as in the last Parliament, without a majority for or against it. How long it will be able to endure the anomalous situation is a question for the future.

I am, &c.,

CHARLES T. GORHAM.

PERU.

No. 469.

Mr. Thomas to Mr. Fish.

No. 125.]

UNITED STATES LEGATION,
Lima, August 27, 1874. (Received September 15.)

SIR: On Saturday, the 22d instant, a few minutes after 4 o'clock p. m., the President of Peru left the presidential mansion and crossed to the side pavement on the opposite side of the street, intending to walk on foot beyond the plaza or principal square of the city, when he was suddenly fired at by a Captain Boza, an officer of the Peruvian army, not in actual service, but on half-pay awaiting orders. The President raised his cane and advanced toward his assailant, who retreated a few steps and fired again; both shots missed. At this moment Boza was knocked down by the policeman on guard at the corner of the street, and his revolver was taken from him by Col. Santa Maria, an aide-de-camp of the President, who caught hold of the assailant and disarmed him. While this was transpiring, four or five more shots were fired without effect from under an archway in the vicinity.

The President then ordered one of his aids to call his body-guard from the palace, but before their arrival the parties who attempted the assassination had made their escape, except the one who fired the two first shots, whom the President ordered should be taken to the police-office. President Pardo then walked about two hundred yards along the side pavement, surrounded by his friends, and a crowd of hostile people who were shouting "Long live religion, and death to Pardo," and were firing pistols in the air, to add to the concourse already assembled. The President then entered his carriage, and, being surrounded by a mounted guard and a friendly crowd, went to his residence, where, during the evening, he was called upon by the members of the diplomatic corps and by a numerous party of sympathizing friends. The President also received a deputation from the Peruvian Congress, now in session, composed of his friends and political opponents, who expressed to the President the indignation felt by the entire Congress at the attempted assassination.

The day after this occurrence a very large meeting of more than five thousand persons, which was presided over and addressed by the mayor of Lima, and by other distinguished citizens, assembled in the principal square of the city and resolved that they had heard with horror of the attempt to assassinate their chief magistrate, and condemned all attempts at revolutionary movements, which would necessarily lead to anarchy in the republic, and pledged to the President, whom they had

elected, all the material and moral aid which he might require. Having adopted resolutions to that effect, the meeting adjourned and proceeded to the residence of the President, who appeared upon the balcony of his dwelling and, having heard the resolutions of the meeting read by its chairman, delivered an address to a very large concourse of people, wherein the President manifested that calm self-possession, patriotism, and determination for which he is distinguished. On the afternoon of the same day the President, without a guard, visited a concert, and in the evening in like manner attended the theater, where he was received with cordiality and enthusiasm by the entire audience. This attack upon President Pardo is the result of an extensive conspiracy. Fifteen of the parties engaged in it have been arrested, many of whom are officers of the Peruvian army, in actual service, others are officers of the army who are on half pay, waiting to be called into actual service, and have been placed in this position by that policy adopted by the last Congress of Peru, which has for its object a diminution of the military expenditures of the government. These conspirators seemed to be governed by no higher object than that of overthrowing a policy which curtails the income of some of them, and possibly interferes with personal aspirations of others. So far as this dark transaction has been unveiled, no successor of President Pardo, in the event of his death, had been agreed upon, and confusion worse confounded, ending in no public good, must have been the result of their success, judging from the vociferations of the angry crowd who were following the footsteps of President Pardo on the day of the attack. The conspirators had calculated upon the co-operation of all that class of the population of this country who have become hostile to the President of Peru on account of his proceedings in which high dignitaries of the Catholic Church were concerned. The Congress of Peru at its last session passed a law forbidding members of the order of Jesuits to reside within the jurisdiction of Peru. In violation of this law, members of that order who had been expelled from other Spanish republics took possession of a convent in the interior of Peru, and took measures to re-organize their society.

President Pardo, in conformity to the law, issued a proclamation requiring them to leave the country, which has caused some degree of excitement. The religious animosity has been increased by another proceeding of the President intended to enforce conformity to a policy adopted by the government of Peru, intended to place the free-school system of the country under secular control. With this view the government directed that a paper called the "Popular Educator," which is published in New York and advocates the free-school system as administered in the United States, to be distributed to the teachers of the public schools of Peru. Irritated at this proceeding, a leading clergyman of the Catholic persuasion at Arequipa, a city of some 80,000 inhabitants, stimulated the members of his church to prevent the circulation of the "Popular Educator," and an angry mob compelled the governor of that city to seize and burn in the public plaza all the numbers to be found of that paper. For this offense the clergyman who instigated the proceedings has been arrested and brought to Lima for trial by order of the government, and two choice regiments of the army of Peru have been sent to Arequipa to quell what seems to be an insurrectionary movement, where crowds of men and boys at night were parading the street and compelling all they met to take off their hats, amid shouts of "Long live religion, and death to the reds"—meaning the soldiers, who wear red pants.

Notwithstanding these grave agitations, judging, as I do, from the

demonstration of the public press of all parties in this city and Callao, from the temper of all parties in Congress, and of the popular demonstrations of the people of Lima and Callao, which this attack upon the President has developed, I have confidence that this abortive attempt at assassination, showing, as it does to all lovers of law and order, the dangers to which the republic is exposed, will result in checking for the future the revolutionary elements in angry movements in Peru.

I am, &c.,

FRANCIS THOMAS.

No. 470.

Mr. Thomas to Mr. Fish.

No. 136.]

UNITED STATES LEGATION, LIMA, PERU,
October 27, 1874. (Received November 17.)

SIR: It has been ascertained that another revolutionary movement against the government of Peru is in progress, and, from the talent of the men concerned as its leaders, bids fair to cause more trouble for its suppression than any one of the many movements of that character which have been suppressed since the administration of President Pardo.

An armed steamer, carrying twelve guns, with munitions of war on board, it is said, is seeking for a port in Peru, to the north of this place, to land. This vessel is under the command of an officer who formerly commanded one of the steamers of the Pacific Steam Navigation Company. The principal leaders of this movement, who, it is said, are on board this ship, called the "Talisman," are Pierola, Bogardus, and Escobar. The first and last named have heretofore held positions as members of the Peruvian cabinet, and the other, Bogardus, became notorious on account of his unsuccessful attempt, in 1872, to destroy President Pardo by a torpedo, to be placed under a railroad-car in which he was to travel. The government of Peru are on the alert, and have dispatched a steamship called the "Union," and an iron-clad called the "Huascar," in pursuit of the "Talisman."

We have a rumor that arms and munitions of war have been landed north of this city, in the vicinity of Paita, and it is conjectured that the attempt will be made to land and organize a military force in that vicinity. As the population is not very dense in that section, it is an undertaking of much difficulty to organize there a military power of sufficient force to overthrow the government. Other reports lead to the belief that the revolutionary leaders will land in the vicinity of Arequipa. Ten years ago Arequipa had a very considerable population. It is otherwise now. The lavish expenditures of public money by President Balta, in and near this city, caused the congregation of a very large portion of the people of Peru in this city, Callao and Chorillos, and the surrounding country; and it does not seem to me probable that any military force can be organized sufficient for the overthrow of Pardo's administration as long as he has the confidence, as he now has, of that part of the regular army stationed in Lima, and of a large majority of the Peruvian population, living within a circle having a radius of ten miles, which could be drawn around this city.

I am, &c.,

FRANCIS THOMAS.

No. 471.

Mr. Thomas to Mr. Fish.

No. 137.]

UNITED STATES LEGATION,

Lima, Peru, November 13, 1874. (Received December 1.)

SIR: After my dispatch No. 136 was mailed, news by telegraph was received in this city that the steamer *Talisman* had anchored at the port of Pacasmayo, about three hundred miles north of this city, on the 23d ultimo. The commander of this vessel landed at this port, and was immediately taken into custody by the authorities. The captain of the port of Pacasmayo, and an officer of the customs, with a boat's crew of four men, went off on board the steamer *Talisman*, and were immediately seized and made prisoners. The captain of the port and his boat's crew were carried away in the *Talisman*; the custom-house officer jumped overboard, and was saved. Before leaving, the *Talisman* fired on a launch containing soldiers, who left the shore for the purpose of seizing the ship, but abandoned the undertaking upon being fired at by cannon and small-arms from the steamer. No lives were lost.

On the 6th of November the commander of the Peruvian man-of-war *Huascar*, which had been cruising in search of the *Talisman*, found that vessel at anchor at a place called Pachoca, about six hundred miles south of this port, and succeeded in capturing the ship, and found on board of her a large portion of her cargo and only six men of her crew. Pierola and Escobar, the leaders of this revolutionary movement, with the force under their command, succeeded in landing, and, with part of the arms and ammunition which they had provided, and taking possession of a railroad-train, they moved to an interior town called Moquegua, which, for the present, is made their headquarters, and they are endeavoring to enlist troops. The state of their military organization it is not easy to ascertain. But it is generally believed that the forces sent from Lima to check this movement are sufficiently numerous.

We have to-day a telegraphic dispatch that a revolutionary movement is progressing in the interior, at a place called Cajamarca, about one hundred miles from the coast, and about three hundred miles north from this city, for the suppression of which a military force deemed sufficient left the harbor of Callao last evening. The Congress of Peru, now in session, have authorized the President to borrow five million soles to defray extraordinary expenses, including an increase of the military force, which these revolutionary movements have rendered unavailable. And as the commanders of the naval force of Peru are faithful to the administration, the government has the means to transport with facility, north and south, the military force required to quell this divided insurrectionary movement.

I am, &c.,

-FRANCIS THOMAS.

No. 472.

Mr. Thomas to Mr. Fish.

No. 140.]

UNITED STATES LEGATION,

Lima, Peru, November 27, 1874. (Received Dec. 15.)

SIR: I have the honor to inclose, for the information of the Secretary of State, an extract from the *South Pacific Times* of 26th instant.

President Pardo, with the consent of Congress, left this city a few days since, that he might in person be near enough to supervise about four thousand soldiers, composed of cavalry, artillery, and infantry. No decisive action has taken place; the revolutionary forces have retreated from Moquegua to Torata, the mountainous region south of Arequipa, where it is said they have taken up a very strong position. Pierola, who is the leader of this movement, was formerly secretary of treasury under the administration of the late President Balta, and is said to have large amounts of money at his command. This city is quiet, and is well guarded at night by volunteer organizations, in aid of the police and that part of the army left in their barracks.

There would appear to be no reasonable doubt of the overthrow of this rebellion but for the uncertainty of the fidelity of the forces of the government. Those who have the best opportunity to judge have confidence in the troops. But, as the soldiers are seized and forced into the service, it is not unreasonable to apprehend that portions of the troops of the government may, as in time past, join in the rebellion.

I am, &c.,

FRANCIS THOMAS.

[Inclosure in No. 140.]

THE REVOLUTION.

[From the "South Pacific Times."]

The following extracts are made from numerous letters received from different parts of the republic:

AREQUIPA, November 20, 1874.

Late on the 19th the President, with his accompaniment, left Mollendo for this city. On arriving at Tambo, at 11 p. m., the train was immediately surrounded by a crowd of about a thousand persons. A deputation of the inhabitants waited on him, and one of their number, Señor Ponce, delivered the following address:

"Your Excellency: The inhabitants of Tambo, having heard that you were about to visit the department of Arequipa, have wished to meet you, to express their gratitude and their uniform and decided sentiment of adhesion to your government. You must not be surprised that more are not present. The late hour at which we come to salute you and the suddenness of your visit, of which we were almost ignorant, has prevented many attending this spontaneous manifestation. But you may rest assured that we all, both absent and present, desire the consolidation of public order, and the prosperity of the country, under the auspices of your honorable government. During the last election we sustained the candidature which triumphed at the election of the 2d of August, 1872; and, firm to our vote and our opinions, we shall sustain with patriotism the government which to-day represents legality and order. The only thing we desire is that you will arm us, and send us to the place of danger to suffocate the seditious outburst of those who, when in power, outraged the institutions of the country. The people of Tambo expect your excellency will not forget their patriotic desires."

President Pardo answered:

"I am obliged to you for your fervent sympathies in defense of order and the institutions of the nation, which, during my government, I have endeavored to retain intact, since I know that all our future depends on them. I always believed the citizens of Peru would refuse all connivance with those few who wish to ruin the country in order to achieve their own fortunes. This conviction is confirmed by the patriotic unity which all exhibit in combating the revolution; and your action is the more satisfactory, because it is an honor to the nation and a powerful assistance in its consolidation. I was convinced that the people of Tambo would not be the last to offer their sons in defense of our institutions, and I know that those who gave their co-operation for the triumph of the civil candidature would demonstrate on every opportunity that their enthusiasm was not a mere passing one, but the result of deep-rooted convictions. If necessary, the government will give you arms. I desire the termination of the revolution without the sacrifice of life. Those who surrender in time will be

received with open arms. But if the lives of some and the tears of their relatives become indispensable, the government cannot recede from the sacrifice without becoming a traitor to its mission. It must use every effort to quell the rebellion; if possible, peaceably; if not, by force."

After this interruption the train proceeded on its journey, but, owing to frequent delays, did not arrive in Arequipa until 9 a. m. An immense number of persons had surrounded the station, and on his excellency appearing he was enthusiastically cheered. Numbers of the populace pressed round him to shake hands, and it was with difficulty Prefect Osma and the other authorities could approach to pay their respects. The streets were thronged, and the President finally found himself compelled to take one of the tram-cars to get away from the station. The houses were all decorated, and the 4th, 10th, and 11th guards, with the boys from the training-school, formed the guard of honor. On reaching the principal square, the clergy of the diocese met him, and, after receiving him under their canopy, marched in procession with him to the cathedral, where a solemn *Te Deum* was sung. After the religious ceremony his excellency addressed those present as follows:

"People of Arequipa, since my installation in the chief magistracy I have ardently desired to shake your hands. The constant labors of the government and the uninterrupted threats of revolutions have not allowed me until now to visit this city, rendered so celebrated in our history by your energetic and valorous character. Even to-day I should not have fulfilled these desires had it not been necessary that the personal presence of the chief of the state should second and assist the spontaneous rising of the populace on behalf of order. I care not to flatter pride or passion; I believe I serve better the interests of the country and fulfill more honorably the sacred mission confided to me, by speaking frankly and sincerely. Only military politicians (*caudillos*) who seek power by ignoble means are capable of offering to the populace promises which they have neither intention to fulfill nor means to realize. For this reason I feel convinced that the movement commenced in Moquegua by the Talisman expedition will obtain no assistance in the rest of the republic, and that it will be extinguished by the indifference with which it has been regarded. The government desires that continued peace shall render the constitutional guarantees a fact, and it has given many proofs of its profound respect for those guarantees, and its wish to render practicable the exercise of every political right. This is one of the reasons why both government and populace to-day combat the revolution, which, in its origin, programme, and men, possesses no political significance, and socially can only be looked on as a crime deserving the severest condemnation. The government believes that peace will be maintained and that all the towns, like Arequipa, will lend their co-operation in the work. There are means provided by law, without the necessity of appealing to violence, by which to advocate and bring about reforms. You yourselves were witnesses of this fact when, two years ago, the actual government was legally elected. Those who do not adopt legal measures, but resort to violence, prove thereby that they have not the support of the majority, and any revolution which is not based on that support lacks even the least probability of triumph."

This speech was frequently interrupted by cheers, and, during the remainder of the day, whenever the President appeared in public, he was surrounded by the populace.

It is rumored to-day that the plan for the attack on Torata will be definitely settled to-morrow. One division will leave to-morrow or the next day to attack the camp of the rebels in the rear, from some higher hills in the vicinity. It is supposed this division will consist of the Ayacucho, Zepita, and Dos de Mayo battalions, and the Tenth Guards.

The Pierolists have seized forty mules belonging to private individuals, and carried them off.

It is said that Rivarola's outposts and the pickets of the enemy keep up a continual exchange of shots.

ALTO DE VILLA, NEAR MOQUEGUA,

November 18, 1874.

I take advantage of a few spare moments to let you know our situation. On the 15th we entered Moquegua without opposition, the enemy having retired to Torata, and we followed on to Alto de la Villa, where we now are. Yesterday we had a skirmish with Escobar's force, which is in position on a ridge called Los Angeles, and which resulted in four killed and various wounded of the enemy, without casualty on our side. Our troops are enthusiastic and determined, and are examples of morality and valor. I am confident my second communication will inform you of a victory, for the men on the otherside are recruits and do not know how to fire, as is proved by the lengthy skirmish yesterday, in which not one of our men was hurt.

ILO, November 18, 1874.

The division of Colonel Rivarola is still at Alto de la Villa, determined to break up the force of those who wish to disturb our tranquillity and abolish our guarantees.

This news has been brought by the Huanaco, which has been repaired, as also the Ilo and Moquegua engines. The repairs on the line were somewhat heavy, but they have been effected, and now rails have replaced those which had been taken away. The rebels occupy three positions: the forced recruits in Torata, and the volunteers in the plain of Arrastrado and the hill Los Angeles—the latter being the outpost. They can do nothing; laborers are not soldiers, and I am sure will be beaten by the government troops, who understand their arms and are well disciplined. The men commence to desert from the rebels and to hide in the plantations after passing Huaraeane Hill. Pierola is believed to have 800 men.

No. 473.

Mr. Thomas to Mr. Fish.

No. 145.]

UNITED STATES LEGATION,
Lima, Peru, December 13, 1874. (Received December 31.)

SIR: I have the honor to inclose herewith, for the information of the Secretary of State, an extract from the South Pacific Times, which furnishes, I believe, the most reliable information as to the operations of the army in the vicinity of Moquegua.

I am, &c.,

FRANCIS THOMAS.

[Inclosure in No. 145.]

CONCLUSION OF THE REVOLUTION.

[From the "South Pacific Times," December 12, 1874.]

The Peruvian corvette Union, Commander Portal, anchored in this bay on the morning of the 11th, bringing intelligence of the defeat and dispersion of the forces of Señor Pierola.

The Union had left for Arica with the Tenth and Eleventh Guards of Lima, but on arrival at that port she received the intelligence, which the Talisman had already brought here, that Prefect Zapata had already quelled the disturbance. Commander Portal then returned to Pacochas, and the troops left for the front, but before they had proceeded half-way they were met by a messenger from the President, ordering the departure of the Union for Callao, touching at Arica, in order to carry dispatches announcing that on the 6th instant Colonel Rivarola made a decisive attack on the entrenchments of the enemy at Torata, and that a heavy fire was kept up throughout the day. At nightfall the rebels ceased firing entirely, and the outposts of the government soon discovered they had vacated their positions. Government troops then scaled the heights, and continued their march in the direction the enemy was supposed to have taken. At daylight they fell in with Montero's division, which had been warmly engaged with the flying rebels, and which had captured a very large number of them.

Señor Pierola and his staff are said to have left the scene of battle long before its conclusion, and he was being pursued by Colonel Latorre with the cavalry, with which he has been doing good service since his incorporation in the division of Colonel Rivarola.

It is rumored that General Segura and Colonel Escobar have been killed, but there is nothing official to warrant this assertion.

The number of killed and wounded was not known at the time of the sailing of the Union, and very few particulars are as yet to hand, as she was dispatched directly the result of the battle became known. She was only delayed long enough to receive the Eleventh Guards, which corps returned by her.

The Pacific Steam Navigation Company's steamer Valdivia left for the south last night, to serve as an additional transport for the returning soldiers. It is said the Talisman is also being prepared for the same purpose, so that very shortly the whole of the national guards will have returned to their homes.

No. 474.

Mr. Thomas to Mr. Fish.

No. 148.]

UNITED STATES LEGATION,
Lima, Peru, January 5, 1875. (Received January 26.)

SIR: I have the honor to inclose extracts from the South Pacific Times, showing the present status of the rebellion.

The promptness with which President Pardo placed himself at the head of the Peruvian army, and the consequent defeat of this revolutionary movement, must give additional stability to the present government of Peru.

I am, &c.,

FRANCIS THOMAS.

[Inclosure in No. 148.]

PRESENT STATUS OF THE REBELLION.

ATTEMPT TO SEIZE AREQUIPA.—ROUT AND DISPERSION OF THE LAST REBELS.

[Extracts from the "South Pacific Times."]

The following intelligence was received by the Chalaca at 3 p. m. on the 1st instant, and immediately published by us in the form of a bulletin :

Mollendo, December 30, 1874.

The following telegram has been received from Arequipa, at this moment, 5.15 p. m.:

"Senor Commander Grau :

"Send the Chalaco to Pisco and Callao at once with the following telegram :

"Providence does not cease to protect Peru.

"Whilst at the risk of being attacked in the rear at any moment by Colonel Suarez, and taking advantage of a dense fog, and the knowledge of a good guide, Señor Miranda, the enemy attempted to surprise Arequipa early this morning. Of course anticipating at the same time to be supported by friends in the city.

"I heard at 7 a. m. that the enemy were at Characata, and that they were marching on the city. In the shortest possible time I placed the troops under arms, and occupied the principal towers of the city. The sixth guards and the cadets stood under arms on the roof of San Augustin, the Ayacucho battalion and the twelfth guards in the chief square ; and I ordered Colonel Rivarola with a half-battalion of the Pichinchas to attack the enemy wherever he met them. A short time afterwards I was informed they were entering the suburbs, and I ordered Colonel Velarde with the twelfth nationals to go to the support of the Pinchincha. This movement was immediately made and led to the enemy being taken in the rear.

"Col. Rivarola attacked the enemy with his accustomed bravery in the Miraflores suburb, where they had occupied Ballon's country-house under the command of Escobar. To attack and disperse them took Colonel Rivarola twenty minutes. They left a number of killed and wounded. The body of Colonel Escobar has been found. Pierola and the other leaders remained in the rear, and fled by the road to Chignata. Being short of cavalry, I have had to mount a hundred men of the sixth guard, who are following them up.

"I have sent an aid-de-camp to a squadron of huzzars at Poesi, and another to Suarez, who is in Salinas Pampa, with orders to follow the fugitives.

"The rebels in Arequipa had absolutely no time to render assistance. Arequipa remained tranquil.

"Nothing can be more providential than the circumstance that this revolution has expired on the outskirts of Arequipa.

"Send telegrams to the prefects of the other departments, and the Chalaco must return immediately.

"PARDO."

THE REVOLUTION.

SUNDAY, *January 3, 1875.*

The Pacific Steam Navigation Company's steamship Eten arrived this morning, bringing news fully confirmatory of that published in another column which appeared in a special bulletin on Friday last.

After the death of Escobar and the defeat of his men, Pierola took flight in the direction of the Santa Rosa baths, with the cavalry after him. Since that time nothing has been heard of him. Eight mules laden with munitions had been taken from the rebels.

The total killed in the fight on the 30th was twenty-four; Colonel Escobar and Senor Villafuente being among the number.

General Segura is sick at Omate.

Colonel Santa Maria returned by the Eten.

The troops from Iquique will arrive by the Bolivia, which is due on Wednesday.

A grand banquet has been given to President Pardo in Arequipa. He has not yet visited Puno.

The La Noria and Albarracin Montoneros have entirely disappeared, and the whole province of Tarapaca is quiet, although in Iquique the friends of the revolution are greatly crestfallen.

On the day of the fight in Arequipa it was reported in Tacna that Pierola was about to enter that city.

ATTEMPTED REVOLUTION IN AYACUCHO.—DEATH OF TWO LEADERS.

The following dispatch from the prefect of Ayacucho explains the discovery of a conspiracy, and the steps which were taken to suffocate it, and which led to the death of two of the leading conspirators :

"AYACUCHO, December 22, 1874.

"On the 18th instant I informed the government that I had sent a small force to Cachipacca hacienda, for the purpose of arresting the conspirators who I knew were holding a meeting there. By copies of documents herewith you will learn that that expedition led to nothing save the capture of thirty-six kegs of powder and a packet of communications with reference to the revolution, which were found in a cave in the side of the hill. The conspirators all fled with their arms. Learning from the correspondence captured that the conspiracy was a serious one; that it had agents at Huanta, La Mar, and Cangallo; that it had considerable sums of money sent from Lima; that they had with them a person who had also arrived from the capital for the purpose of directing and leading the movement; and being informed by friends of the government that the rebels were re-assembling in greater numbers, and were casting bullets, making cartridges, and otherwise preparing to attack this city or to resist in the hacienda, which for a long time past has been their meeting-place and depository for their arms, on the night of the 19th I ordered the subprefect and the commander of the police to leave with eighty men for Cachipacca, and gave them written instructions as to the steps to be taken to surround the hacienda and capture all the conspirators and their arms. One of their spies, however, fired off two rockets, which gave them the alarm, and they accordingly took to flight and left the hacienda. I then sent Commander Campos forward with forty men, and he soon after learned they had taken refuge on a steep and difficult hill called Chorro, from which roads run to La Mar and Huanta. Lieutenant Torre with ten men was the first to approach this hill, and on being fired on, his men returned the fire, wounding Señor Felipe Cucalon, who had brought money from Lima for the revolution, and the half-pay lieutenant Señor Adolf Machuca, nephew of General Vargas Machuca, both of whom died yesterday evening. The other conspirators took to flight on perceiving that another picket under Lieutenant Castro was about to close in on their rear. In communicating these facts to the supreme government, I beg also to state that the original documents captured from the conspirators have been handed to the criminal officers in fulfillment of the law. The complete dispersion of these conspirators, and the check it has given to their plans, insures peace in the department.

"M. V. ALVAREZ."

No. 475.

Mr. Thomas to Mr. Fish.

No. 151.]

LEGATION OF THE UNITED STATES,
Lima, Peru, January 18, 1875. (Received February 12.)

SIR: In pursuance of instructions contained in your dispatch No. 111, I have had an informal conversation with the Peruvian minister of for-

ign relations, concerning a proposed transfer to Cuba from Peru of Chinese laborers, and am assured, by the minister for foreign relations, that the government of Peru have no reason to believe that any such purpose is entertained, and that all proper measures will be resorted to by the authorities of Peru to thwart such an attempt if it be made.

I am, &c.,

FRANCIS THOMAS.

No. 476.

Mr. Thomas to Mr. Fish.

No. 157 bis.]

LEGATION OF THE UNITED STATES,
Lima, Peru, February 16, 1875. (Received March 11.)

SIR: I have the honor to inclose, for the information of the Secretary of State, a printed copy of the message of President Pardo, read by him to the Congress of Peru, at the commencement of its called session on the first day of the present month. The message proposes no specific measure of relief to the deeply-embarrassed condition of Peruvian finances, and as the Congress at its recent regular session of one hundred days failed to provide for a depleted public treasury, it would seem that neither the executive nor legislative branch of the government of Peru sees clearly a way out of the pecuniary embarrassment by which that government is surrounded. These financial complications, the Secretary of State is aware, have their origin in injudicious contracts entered into by the administration of the late President Balta, and do not, therefore, materially impair public confidence in the present chief magistrate of Peru and his constitutional advisers.

I am, &c.,

FRANCIS THOMAS.

[Inclosure in No. 157.]

PRESIDENT PARDO'S MESSAGE.

[From the "South Pacific Times" of February 6, 1875.]

On the 3d instant, the extraordinary sessions of Congress were formally opened in Lima. The gallery was well filled, and the speech, which was read by President Pardo, was listened to with marked attention. The following is a translation of this document:

Honorable representatives, my first duty on finding myself in the midst of you, in the tranquil performance of your constitutional attributes, is to render thanks to Almighty God for the rapid and happy termination of the civil war which two months ago threatened the republic, and for the proofs of civic virtues which the citizens have evinced in consequence of it.

The crisis through which the republic has passed has sufficed to prove the power which order, law, and progress hold in our social organization, and the national guards, the army, and the navy have exercised through their spirit and conduct a moral and material influence greatly to the benefit of the true interests of the country. The result has proved that the consciousness of the existence of that power was well founded, and has been a source of satisfaction to right-thinking men of all parties, who desire that their ideas or their political aspirations may be carried out after honorable and peaceable legal conflict.

The army, the navy, and the national guards have acquired just title to public gratitude in this short though vigorous defense of social order, justice, and our institutions.

To consolidate the labor effected, and insure the interests and rights of society

against future attacks, it is urgently requisite to determine a number of important matters which await your decision, and for this reason I have summoned these extraordinary sessions, in the hope that your intelligence and patriotism will give them that correct and prompt solution which the condition of the country imperiously demands.

The most important of these questions are those with reference to the finances.

The country is passing through a crisis which is so serious that we cannot ignore it, because social evils cannot be cured unless the authorities examine into them.

The advances received on account of the sales of guano have resulted in three consequences which to-day are combined in one. The natural reaction in business and industry after passing through an epoch in which the ordinary product of the guano was consumed, and also the sales of future years, the difficulty which the foreign trade of Peru feels in consequence of guano having thus temporarily ceased to serve as a national return, and the blank which the discount of this rental has produced in the receipts, to the great embarrassment of the regular public service.

The first of these results refers to a circumstance already realized, and it cannot therefore be corrected, except by the gradual action of economical laws. The second, *i. e.*, the decreased commercial return in proportion to the imports, will diminish as the production of the country increases. But the third cannot be remedied, except by yourselves, and it is urgently necessary that you undertake the task.

An equality between receipts and expenditures is indispensably necessary for the proper administration of the executive powers, which, as you well know, exercise an important part in the moral and material welfare of a nation. Only the equality can insure credit, and we require to make use of ours in order to terminate the public works which have been commenced, and increase European immigration, which is rendered necessary by them, and which is the most powerful element in increasing production.

If the solution of our financial question places us in a position to make use of our credit, the resources we obtain from it will contribute to a great extent to decrease the ill-effects we at present experience from a want of exportable products, and our foreign trade will to that extent be a gainer. Consequently, the public peace, social order, the due carrying on of the government, the national credit, the termination of the public works and their necessary effects on the prosperity of industry and commerce, all depend on your success in restoring a fiscal equilibrium by determining the sums which are to be permanently devoted to meeting our ordinary expenses.

The solution of this problem has become a necessity to the republic, and it is worthy of receiving the whole of your time, study, and attention, since the difficulties and dangers attendant on its solution are equally as great as those which must result from its non-determination. I call your attention most seriously to this matter, because the future of my country is a question which gives me much thought, and because my duty to it compels me to explain its necessity to you, and to urge you to come to a resolution.

The discussion of the budget and the determination of the receipts with which its expenses are to be permanently met; the determination of unsettled questions as to the administration of guano and nitrate in reference to each other, and in reference to the public treasury; the formation of a special school-fund on a scale which shall enable instruction to be generalized and allow the municipalities freedom of action in the matter with their own funds, and thus liberate the budget from charges for local expenses; and, finally, the determination of funds for the perfection of our public works and for foreign immigration—these are the primary questions which have led to my calling this extraordinary Congress, and to which I especially direct your attention in consequence of their intimate connection with the present and the future of the republic.

Honorable legislators, the responsibility which to-day weighs on the representatives of the people is as great as are the problems submitted to their decision by public necessity; and problems such as these, on which the present and future of a nation depend, can only be solved by disregarding the minor interests of the present and acting for the permanent welfare of society.

After the President had terminated, the speaker of Congress answered him in a short speech, and the sessions were declared to have commenced.

No. 477.

Mr. Gibbs to Mr. Fish.

No. 8.]

LEGATION OF THE UNITED STATES,
Lima, Peru, July 20, 1875. (Received August 11.)

SIR: There is nothing of importance to report politically, except an apparently small affair at Islay, some four hundred and fifty miles south-east from here, on the coast.

Islay is a port of entry in the province of Arequipa. From the official reports, it appears more like a raid for plunder than for political effect. At midnight of the 14th instant, one Enrique Bustamante, native of Colombia, an ex-officer of customs, with some thirty or forty persons, attacked the custom-house, seizing the treasury-box, but finding only some 700 soles, they left, taking nothing. No resistance was made and no one injured. They left the town of Islay and went to the port of Mollendo, some twelve miles distant from where the railroad starts for the principal city of that portion of the republic, Arequipa. The force of the insurgents had increased to some fifty or sixty men mounted, armed with rifles and muskets, headed by Bustamante and one Arévalo, the Prussian, so called, having served in the late Franco-Prussian war. They attacked the town about 7 a. m., met with a very slight resistance, and soon had command, two policemen only being wounded; went to the railroad and forced the employes to get ready a train, leaving at 10. Shortly afterward the subprefect of Islay arrived with a force of twenty-five or thirty men in pursuit of the insurgents, got ready another train, and followed at 1 p. m.

By later news it appears that on the arrival of the insurgents at Arequipa, they received little or no assistance from the inhabitants, and were soon dispersed, Arévalo, the chief, being wounded and a prisoner. The foregoing is official, as published in the journals of Lima. The President has sent several steamers with artillery and infantry to Mollendo, and the general opinion is that this disturbance will not amount to anything of importance.

I have, &c.,

RICHARD GIBBS.

No. 478.

Mr. Gibbs to Mr. Fish.

No. 14.]

LEGATION OF THE UNITED STATES,
Lima, Peru, August 18, 1875. (Received September 10.)

STR: I regret that I have to announce the death of Rear-Admiral N. Collins, of the South Pacific squadron, which took place on board of his flag-ship, Richmond, on the 9th instant, at 8.50 p. m. As the admiral was sick only a few days, being taken down the night of the 6th instant, it was a great surprise to his numerous friends, and cast quite a gloom over the foreign residents at Callao and Lima. The President of the republic kindly offered to send aboard two of the principal physicians of the city, but, unfortunately, too late to be of any service.

On the day after his death, the President also sent his aid-de-camp to manifest his regret at the loss of so distinguished a person to the United States Navy.

I passed a circular note to the foreign ministers resident at Lima, and also to the members of the cabinet, all of whom attended the funeral.

A special train had been prepared for the friends of the deceased and the foreign residents at Lima by Mr. Henry Meiggs, to which was attached the government or state car for the diplomatic corps and the cabinet. On the return of the train to this city, I gave thanks to all, in the name of the United States Navy and Government, for the manifestation shown to the memory of the deceased.

The funeral was attended by a large number of the Peruvian naval officers in full uniform; and, by order of the minister of war, two batteries of artillery, a battalion of infantry, and a large number of lancers. Full military honors in salute were given at the cemetery by the Peruvian troops.

Inclosed please find articles from the "South Pacific Times," descriptive of the funeral; also, a communication from the minister of foreign affairs and my answer. The communication from the minister of foreign affairs is translated and embodied in communication No. 6 to Captain Johnson.

I have, &c.,

RICHARD GIBBS.

[Inclosure 1 in No. 14.]

FUNERAL OF ADMIRAL COLLINS, U. S. N.

[From the "South Pacific Times," Callao, August 12, 1875.]

In our last we mentioned the almost sudden death, on the night of the 9th instant, on board the United States flag-ship *Richmond*, of Rear-Admiral Napoleon Collins, who was in command of the United States naval forces on this station. Admiral Collins was a native of Philadelphia. He first entered the naval service of his country on the 12th January, 1834, and his commission as rear-admiral was issued on the 9th August, 1874, one year to the day on which he died. His full length of service, therefore, exceeded forty-one years. Those of the public on this coast who enjoyed the pleasure of his acquaintance could not fail duly to estimate the many excellent qualities that formed a perfect character. Highly respected in the very distinguished position he filled, and honored by those who had the privilege of serving under him, he was, at the same time, noted for his great social virtues, and for a courtesy that was nothing short of amiability. His hospitality was unbounded, and it was impossible to know him without being captivated by the striking qualities which marked his character—qualities that elicited admiration quite as much as distinguished rank inspired respect. Quite a gloom has been spread over the communities of Lima and Callao by his sudden demise, and the heart-felt sorrow occasioned is sincere and not confined to lip-expression. It is seldom that regrets have been more deep at any event occurring here, however sad, or grief more poignant at the death among us of one comparatively a stranger. In these remarks we embrace the sentiments of the community on whose behalf we pay the tribute of justice to departed worth.

The following correspondence consequent on the sad event has taken place:

"UNITED STATES CONSULATE,
Callao, August 10, 1875.

"SIR: I have to fulfill a painful duty, and inform you of the decease of Rear-Admiral Napoleon Collins, commander-in-chief of the South Pacific naval station, which unfortunate event took place yesterday, the 9th instant, at 8.45 p. m.

"His remains will be interred to-morrow afternoon, in the English cemetery, and I therefore have the honor to request from you the necessary permission, in order that the United States marines belonging to the same vessel may land to take part in the funeral rites, and to perform the customary salutes.

"Very respectfully,

"P. CLAYTON, *United States Consul.*

"To the PREFECT OF CALLAO."

"CALLAO, August 10, 1875.

"The writer has read with deep regret the note of the consul of the United States in this port, in which he communicates to him the lamented death of Rear-Admiral Napoleon Collins, commander-in-chief of the United States naval forces in the South Pacific, which event took place on board the "*Richmond*," on the evening of the 9th instant. In consequence of this regrettable circumstance, and that the funeral will take place to-morrow afternoon in the British cemetery, the consul solicits the necessary permission from this prefecture in order that the marines from the ship may land to assist in the funeral ceremonies and perform the usual salutes.

"While freely granting this permission, the undersigned begs to be the faithful interpreter of public opinion, and to express to the consul the deep sorrow felt in this province at the decease of the illustrious rear-admiral.

"For this sad cause the undersigned offers to the consul, and to his noble country, his profound regrets, and repeats the sincere assurances of esteem and appreciation with which he has the honor to subscribe himself the consul's very obedient servant,

"MANUEL VELARDE,
"Commander-in-Chief of the Marine Office.

"CALLAO, August 10, 1875.

"To the ADJUTANT-IN-CHIEF:

"At 2 o'clock to-morrow the funeral will take place of Rear-Admiral Collins, commander-in-chief of the United States squadron in the South Pacific. Consequently you will issue all necessary orders that the boats of the squadron at anchor in the bay may assist in the ceremony of removing the remains from the Richmond to the shore. All commanders and officers not on duty will also attend. On the arrival on shore of the funeral cortege, it will be followed to the place of sepulture. The staff will be presided by the subscriber, in half-dress, with blue waistcoat and white gloves.

"DIEGO DE LA HAZA."

Directly President Pardo was informed of the serious illness of Rear-Admiral Collins he sent an adjutant to the Hon. Richard Gibbs, the minister of the United States, offering at once to send the most celebrated physicians in Lima in consultation, but it was, unfortunately, then too late for their services to be valuable, in consequence of the extreme rapidity with which the disease had already developed itself. On being informed of the unfortunate demise of the admiral, the President acted in the same courteous manner, and by his private aid-de-camp expressed his regret to the minister at the loss experienced by the Navy of the United States.

The funeral took place yesterday. It would be impossible for us to give an account of the demonstration of respect that was made by all classes, both native and foreign, in honor of one who had in so short a time earned the esteem of the public. The time appointed for the solemn ceremony was 2 o'clock p. m. Long before that hour thousands of persons crowded the mole and other places from which it was known a view could be commanded. A gun, at a few minutes after 2 o'clock, announced that the procession of boats had left the flag-ship. In all, it consisted of upward of thirty boats, which left the ship in the following order:

First boat, containing band and the firing party.

Second boat, with chaplain and surgeon of the flag-ship Richmond.

Third boat, with coffin and bearers.

Fourth boat, with pall-bearers.

Fifth boat, with officers of flag-ship, in full-dress uniform.

Sixth boat, with officers of the United States steamship Onward.

Then followed several boats from Peruvian ships-of-war, and eight belonging to steamships of the Pacific Steam Navigation Company; a few belonging to merchant-vessels brought up the rear. They all carried the flags of their respective nationalities at half-mast. The Richmond's boats were towed by the steam-launch belonging to the ship. The procession moved very slowly, and took upward of twenty minutes in reaching the shore, where it was met by thousands of persons. The blue-jackets lined one side of the mole and the marines the other. The hearse in attendance received the corpse, and then the procession, according to programme, was to move off in the following order to the cemetery at Bellavista:

Band of Peruvian regiment; firing party of marines; chaplain and surgeon of flag-ship Richmond; hearse, followed by pall-bearers; men from the Richmond, commanded by their officers; officers of flag-ship, juniors in advance; Hon. Richard Gibbs, United States minister, and Captain Johnston, of the Richmond; officers of the Onward, juniors in advance; followed by the several consuls and ministers plenipotentiary.

The members of the Peruvian government present were: Captain Garcia y Garcia, minister of government; Señor Freyre, minister of war; and Señor A. V. Torre, minister of the interior.

Two special trains arrived from Lima, one with about four hundred soldiers, who attended in the procession; the other with the ministers of government, foreign ministers, and other gentlemen of distinction. Among the private gentlemen present we noticed Messrs. Henry Meiggs, John G. Meiggs, Guillermo Scheel, E. C. DuBois, Fred. Ford, M. P. Grace, Noel West, C. A. Westphal, W. F. Beart, G. M. Bowen, Charles S. Rand, Henry Meiggs, jr., W. H. Cilly, L. Mawlinoski, John Dawson, H. W. Isaacson, A. Robertson, Walter Shaw, Norman Evans, W. P. Young, S. Crosby, Edward Dartnell, W. B. Colville, William DeCoursey, C. H. Bodeker, J. C. Thorndike, and Dr. Watson, Dr. Ward, and Dr. Phillips. The naval gentlemen prominent as representing the Peruvian navy were Admiral Haza, Captain Grau, Captain More, and Captain Miro Quesada.

The service was performed by the chaplain of the Richmond in a most impressive manner. There were also present the Rev. Mr. Weatherhead and the Rev. Mr. MacKinnon.

The commanders of the Pacific Steam Navigation Company who attended were Messrs. Mills, Conlan, Barber, Clampitt, and Potts.

During yesterday and the day before flags at half-mast were hoisted at the different consulates on shore, at the various public departments, and by the shipping in the bay. Guns were fired from the Richmond, at intervals of fifteen minutes, from the time the corpse left the ship until the mournful ceremony of interment was over. The several officers of the United States Navy wore crape around their arms; the national flag was also draped in the mournful emblem of sorrow, and some of the Peruvian officers likewise wore crape. While the ceremony was proceeding within the cemetery a salute was fired outside from the guns that had been taken up in the procession, and three volleys were fired over the grave by the marines of the Richmond, under command of Captain Meeker.

Few, if any, residents in Callao have witnessed a greater concourse of persons than attended to do honor yesterday to the memory of the gallant admiral, whose name will long be remembered here with happy recollections of his presence among us, and sorrowful memories that he has been taken from us forever.

[Inclosure 2 in No. 14.—Translation.]

Mr. Torre to Mr. Gibbs.

No. 23.]

MINISTRY OF FOREIGN AFFAIRS,
Lima, August 10, 1875.

I regret to inform your excellency that the prefect of Callao has just announced to me Admiral Collins died yesterday at 9.45 p. m. In bringing this sad news to your excellency's knowledge, I take occasion to inform you that measures have been taken by the minister of marine, in order that such honors as befit his high rank may be paid to the departed admiral at the funeral, which is to take place to-morrow, in pursuance of arrangements made by the American consulate at Callao. I avail myself of this sad occasion to reiterate to your excellency the assurances of my distinguished consideration and esteem.

A. V. DE LA TORRE.

To His Excellency RICHARD GIBBS,
Minister Plenipotentiary of the United States of North America.

[Inclosure 3 in No. 14.]

Mr. Gibbs to Mr. Torre.

No. 8.]

LEGATION OF THE UNITED STATES,
Lima, Peru, August 10, 1875.

SIR: Your communication No. 23 has been duly received, relative to the death of Rear-Admiral Collins; also the information of the orders given by the minister of marine that, at the funeral of the deceased admiral, due honors corresponding to his high rank will be given. At the moment of receiving the note, I was about addressing you a communication with the same sad intelligence; and now, it remains for me to request you to honor with your presence the funeral *cortège*, which will leave the Muelle Darsena at half past two to-morrow. A special train has been provided for the invited guests and friends of the late admiral, to leave the station of San Juan de Dios, promptly, at half past one. Be pleased to transmit to the minister of marine my thanks for his courtesy on this sad occasion. With this painful occasion I reiterate to your excellency the assurances of my great distinction and esteem.

I have the honor to be your obedient servant,

RICHARD GIBBS.

To His Excellency V. D. ANNIBAL V. DE LA TORRE,
Minister of Foreign Affairs.

[Inclosure 4 to No. 14.]

Mr. Gibbs to Captain Johnson.

No. 6.]

LEGATION OF THE UNITED STATES,
Lima, Peru, August 11, 1875

SIR: I have received the inclosed communication from the minister of foreign relations,* of which I send you copy and translation. An aid-de-camp of the President of the republic has also called on me to offer his regrets at the great loss we all have experienced.

I have the honor to be, your obedient servant,

RICHARD GIBBS.

Captain PHILIP C. JOHNSON,
Commanding United States Flag-ship Richmond, Callao Bay.

No. 479.

Mr. Hunter to Mr. Gibbs.

No. 11.]

DEPARTMENT OF STATE,
Washington, September 14, 1875.

SIR: Referring to your dispatch No. 14, under date of the 18th ultimo, relating to the death and funeral ceremonies of Rear-Admiral Napoleon Collins, U. S. N., I have to request that you will convey to the Peruvian government the thanks of that of the United States for the signal courtesies extended, and for the sympathy shown on the occasion.

I am, &c.,

W. HUNTER,
Acting Secretary.

PORTUGAL.

No. 480.

Mr. Moran to Mr. Fish.

No. 27.]

LEGATION OF THE UNITED STATES,
Lisbon, July 3, 1875. (Received July 19, 1875.)

SIR: With reference to my No. 10 of the 21st day of April last, I have now the honor to forward, herewith, an official copy taken from the "Diario do Governo" and an English translation thereof, of the act passed by the Cortes at its late session, granting unconditional freedom to the Portuguese slaves known as freedmen. This law was not officially promulgated until the 11th of May, and the necessity for care in the translation has prevented me from sending the document to you by an earlier mail; but as I had already communicated its substance to the Department, I trust that this unavoidable delay will not be regarded by you with disfavor.

I have, &c.,

BENJAMIN MORAN.

* See inclosure 2.

[Inclosure in No. 27.—Translation.]

Proclamation of the abolition of servitude in the Portugal Colonies.

Dom Luiz, by the grace of God King of Portugal and the Algarves, &c., &c. We make known to all our subjects that the general Cortes have decreed, and we have approved, the following law :

CHAPTER I.—*Of the condition of liberty conferred on the apprentices, and the tutelage to which they are subject.*

ARTICLE I.

One year after the publication of this law in the ultramarine provinces, is considered extinct the condition of servitude established by the decree with the force of law of the 25th of February, 1869, and are declared free all those persons to whom it refers.

ARTICLE II.

Persons who thus obtain their full liberty are subject to the conditions of this enactment.

§ 1^o. Provided, however, that persons who are employed in public or private schools, or who profess and are actually employed in any art, skilled labor, or public office, and who can read and write, are excepted from such tutelage.

§ 2^o. The public tutelage ceases by law on the 29th of April, 1878, by virtue of the decree with the force of law of the 29th of April, 1858.

ARTICLE III.

In each of the provinces of Angola, Mozambique, and St. Thomas e Príncipe, there shall be appointed by the government a magistrate, curator-general, whose duty it shall be to perform in the said provinces the duties in regard to public tutelage provided for in the second article of this chapter, and all the duties imposed on them by this act, or which may be enjoined by the directions of the government.

§ 1^o. The governor of the province, with the advice of his council, will supervise the acts of the curator-general.

§ 2^o. The salary of the curator shall be twelve hundred milreis, and shall be to all legal effects and purposes equal to that of the attorneys for the crown and treasury in the ultramarine provinces.

ARTICLE IV.

The labor of the persons to whom the second article refers is declared free, to the end that they shall be able to treat for their wages and receive the pay contracted for.

CHAPTER II.—*Of the contracts for the wages of labor of individuals subject to public tutelage.*

ARTICLE V.

The individuals who, under this law, remain subject to public tutelage, must contract for two years' service, the curator being judge of such agreements for said services.

§ 1^o. The former masters shall have the preference in these contracts if they desire it, subject in all respects to the conditions of this act.

§ 2^o. The curator-general shall carefully inspect these contracts, and shall have power to prohibit them when he shall have reason to believe that he ought not to consent to them.

§ 3^o. When contracts shall not be made with the old masters, they may be made with other persons.

§ 4^o. Rules shall be framed for particular conditions which, besides those prescribed by this act, shall be observed in regard to sex and the different estates of minors and adult persons.

ARTICLE VI.

These contracts shall be :

§ 1^o. For payment of labor only.

- § 2°. For payment of labor and colonization by means of concessions of land.
 § 3°. For payment of labor by concessions of land only.
 § 4°. For service in the district to which the freedman belongs.
 § 5°. For service in a district other than that to which the freedman belongs.

ARTICLE VII.

The contracts to which the preceding articles refer shall be made before the public authorities designated by the curator-general, subject to his supervision, and shall be duly registered.

ARTICLE VIII.

The contracts may be made with a stipulation for wages only or for wages, board, and clothing.

ARTICLE IX.

In the published list of regulations for each district shall be prescribed the minimum of wages, rations, and clothing to be paid to the workmen or colonists by the masters or landlords who contract for their services, the days of labor and the hours of work in each day, regard being had to the employment and the conditions of age and sex.

ARTICLE X.

No contracts shall be approved which shall contain conditions for guarantees and remunerations less than those prescribed in the regulations.

ARTICLE XI.

The contracts for concessions of land shall be made according to the provisions of the civil code.

ARTICLE XII.

If in contracts for concessions of land there should be a stipulation for rendering service by manual labor, in no case shall such personal service be for more than half of the time covered by the contract, in conformity with the regulations, nor for more than two years; nor shall any fixed price for products of the labor of the freedman be stipulated for or that they shall be sold only to the master or landlord.

§. The regulations for each district shall prescribe the minimum of lands, which may be stipulated for by each colonist, unmarried or having a family.

ARTICLE XIII.

Colonists shall not be allowed to make contracts that separate them from their wives, or their children under fifteen years of age.

ARTICLE XIV.

Contracts containing a stipulation for personal labor shall not be assigned over by the master or lessee, without the consent of the freedman or lessee, except in cases specially authorized by this act; when, however, such assignment is made, it shall be done with all the formalities required for the first contract, and subject to the same conditions.

ARTICLE XV.

Contracts will only be allowed to be made by the parties in person or by agents duly authorized by the governor of the province in council, under the conditions prescribed by the regulations.

ARTICLE XVI.

Contracts for personal service shall only be permitted when the master shall prove to the authority competent to authorize the contract, that he is a farmer or mechanic provided with all the requisites for carrying on his trade or business. Contracts for domestic service are excepted from the operation of this article.

ARTICLE XVII.

Advancements of wages to be deducted from the annual payment shall not exceed the pay for two months in any one year. These advancements shall be considered paid at the end of twelve months from date if they shall not have been previously paid, and no deduction shall be made in any month for more than a twelfth of a month's wages.

ARTICLE XVIII.

No contract for extending a contract for personal service shall be permitted before the term of such contract shall have expired.

§ 1°. At the close of the term stipulated in obligatory contracts prescribed by article 5, in the renewal of voluntary contracts by colonists and servants as well as in contracts newly made, the requirements of this act shall be observed as far as applicable in the manner determined by the regulations of the government.

§ 2°. The provisions of § 1°, of article 5, shall not apply to these contracts.

ARTICLE XIX.

The organization of companies of workmen to labor for agriculturists, or industries that cannot or do not desire to contract for labor by the year, is allowed by this act.

§ 1°. Laborers so contracting shall not be allowed to contract for a longer term than is prescribed by article 5 of this act.

§ 2°. There shall be prescribed, in the table of regulations, the minimum price of labor which may be so contracted for, and such other conditions as may be requisite in such contracts.

§ 3°. This table shall be revised every year.

§ 4°. The conditions of the labor thus afforded will be the same as are prescribed for other contracts.

§ 5°. The regulations prescribed in each province for the execution of this article shall be submitted for the approval of the home government.

CHAPTER III.—*Contracts for service and colonization beyond the district to which the freedman belongs.*

ARTICLE XX.

Contracts for personal service and colonization beyond the district to which the freedman belongs may be made, subject, however, to the provisions of this act and the regulations prescribed in conformity with its provisions.

ARTICLE XXI.

Contracts authorized by the provisions of this chapter may be made either by the masters or landlords in person, subject to the conditions of article 16, or by agents specially authorized under the provisions of article 15, having first entered into bonds with adequate security.

§. The contracts to which this article applies shall be made, with all the formalities which are or may be prescribed under this act, and the agents shall be required to make returns of all such contracts to the curator-general.

ARTICLE XXII.

The transportation of colonists, or persons contracting to render personal service, shall only be made in vessels expressly registered for this service, giving such bail or making such deposit as shall be fixed by the regulations, with joint and several responsibility upon the ship-owner and commander.

ARTICLE XXIII.

In all such contracts there shall be inserted an obligation for the payment of the transport of such colonists and their families who, at the end of the term for which they shall have contracted, may desire to return to their native district.

ARTICLE XXIV.

The government, if it shall be found convenient, may authorize the governor of St. Thomas and Principe to contract, on account of the province, for colonists in any other district, and these contracts may be, under the same conditions, assigned to private persons.

ARTICLE XXV.

These contracts shall not be permitted, if it can be shown that, in any manner, they serve to promote the traffic in slaves.

ARTICLE XXVI.

The embarkation of negro laborers contracted for shall not be permitted until all the regulations prescribed under this law shall have been complied with.

CHAPTER IV.—*Vagrancy, and penalties for violation of the provisions of this act.*

ARTICLE XXVII.

Persons referred to in the first article of this act, who, under the provisions of article 256 of the penal code, were adjudged to be vagrants, shall be subjected to obligatory labor for two years in work-houses to be specially provided by the state for this purpose, or in the fortresses and public works of the province, and shall receive the wages fixed upon by the respective governors in council.

§ 1°. Such persons may, at any time, contract for their services with private persons, and in such case the obligation to perform public labor shall cease.

§ 2°. The public authorities shall not have power to hire to private individuals the services of such persons except upon the terms prescribed by this act in articles 19 and 24, or upon contracts voluntarily made by these persons according to established regulations.

ARTICLE XXVIII.

Any person who shall interfere or attempt to interfere with the labor of the colonists or persons who shall have contracted to labor, or shall entice them to abandon their work, shall be subjected to the penalties prescribed in the penal code.

ARTICLE XXIX.

Individuals who shall have made contracts for their services shall not be prevented by their masters or landlords from appealing to the local authorities established for their protection.

ARTICLE XXX.

Any person who shall hinder or attempt to hinder such appeal shall be punished according to the provisions of the penal code, and in addition thereto shall forfeit his right under the contract, if the colonist or person who has contracted to render personal service shall desire it. In such case the master or landlord shall forfeit all claim to indemnity for the time unexpired under the contract.

ARTICLE XXXI.

The curator-general shall superintend the execution of the contracts, and shall procure, by the proper measures, the annulment of all those of which the conditions shall not have been performed.

CHAPTER V.—*Indemnifications to persons who were entitled to the labor of the freedmen.*

ARTICLE XXXII.

The government shall direct a careful inquiry to be instituted, in order that it may be informed :

§ 1°. As to the manner in which the register of freedmen has been kept in the different provinces in virtue of the decree of the 14th of December, 1854, and of subsequent legislation.

§ 2°. What persons, among those registered, are embraced in the provisions of the second section of article 1 of the decree of the 24th of July, 1856.

§ 3. What is the average value in each province of servile labor.

ARTICLE XXXIII.

In order that a right to indemnification shall be recognized, it shall be required that every person interested shall prove before the council of the government the number

of freedmen he had in his service, the profit derived from them, the time when he caused them to be registered, their present ages, and the labor in which they were employed at the date of this law, and that he has paid the tax established for each slave or freedman, the usufruct of which service he enjoyed.

ARTICLE XXXIV.

The process for valuing the indemnification of which the 33d article treats, shall be administrative, and the decision of the council of the government of the province shall be final.

§º. The conditions and formalities of this process shall be prescribed by a regulation of the government.

ARTICLE XXXV.

The indemnification and the manner of its payment can only be prescribed by law after the conditions imposed by the preceding articles shall have been complied with.

ARTICLE XXXVI.

From and after the date of the publication of this law in each of the ultramarine provinces, by operation of this act, independently of any proclamation, all slaves or freedmen who have been brought into the province shall be considered free. The curator-general shall ex-officio take care that this requirement be strictly complied with.

ARTICLE XXXVII.

The curators-general will render an account of their proceedings, once in every six months, to the governors of the provinces respectively, and these shall report to the home government as to the manner in which the provisions of this act are executed.

ARTICLE XXXVIII.

The government shall make a general regulation for the execution of this law.

ARTICLE XXXIX.

All previous legislation in conflict with this act is hereby repealed.

No. 481.

Mr. Moran to Mr. Fish.

No. 31.]

LEGATION OF THE UNITED STATES,
Lisbon, July 15, 1875. (Received August 12.)

SIR: The debate which took place in the British House of Commons on the 8th instant, on the African slave-trade, in which Mr. Bourke referred to the effective co-operation of the Portuguese government in the suppression of this disgraceful and inhuman traffic, gives me an opportunity of briefly referring to the action of this country in this respect. I have much pleasure in saying that the government is in earnest in its endeavors to put down this trade, and that the governors of its colonies on both the east and west coasts of Africa have been directed to use their best efforts to that end. Not long since the governor of Mozambique asked for naval aid to enable him to assist in suppressing the traffic then being surreptitiously carried on by Arabs along that coast; and not only was this request granted to the fullest extent of the naval power of the government, but, in one important instance, where he had spontaneously permitted British vessels of war to follow slavers into the creeks and bays of the colony, his action was cordially approved.

It is true that this proceeding was exceptional, and its frequent repetition would be sure to result, sooner or later, in a violation of national jurisdiction; but it resulted in important captures, and in the discomfiture of the slavers in that part of the world, to the extent of the partial destruction of their nefarious trade.

I have heretofore reported to you the condition and force of the Portuguese navy, and it is to the credit of the government that out of the vessels which compose it, a fair number, and those the most effective for the purpose, are engaged in lending aid to put down the slave-trade in the seas adjacent to Mozambique and the other Portuguese colony in that direction.

This action is in harmony with the spirit of the act passed by the Cortes, in March last, for the emancipation of the people known as freedmen; and gives proof that the Portuguese government is in earnest in its purpose to destroy the slave-trade wherever it can reach it.

I have, &c.,

BENJAMIN MORAN.

No. 482.

Mr. Moran to Mr. Fish.

No. 33.]

LEGATION OF THE UNITED STATES,
Lisbon, July 27, 1875. (Received August 23.)

SIR: On Saturday, the 24th instant, there was a grand national celebration in Lisbon, to commemorate the landing in this place, on the 23d and 24th of July, 1833, of the troops of the Duke Terceira, and the retirement from the city of the forces of Don Miguel. The display was very fine, and the ceremonies were participated in by thousands of the inhabitants of Lisbon and the adjoining country, on both banks of the Tagus. The royal family attended a *te Deum* in the church of San Domingos, one of the most impressive places of worship in this metropolis, and witnessed the "march past" of about 7,000 troops in front of the theater of Donna Maria Segunda, in the praca de Don Pedro, where they were attended by the diplomatic corps, the ministers of state, and a large staff of military officers. The troops made a truly fine show and had a very soldierly bearing.

Subsequently they marched to the praca dos Romulares, or as it is popularly called, the caes do Sodré, near the river, the scene of the landing in 1833, where the King laid the corner stone of a monument to be erected to the Duke of Terceira, to whose exertions the reigning family of Portugal owes so much for their accession to power.

I mention this celebration, as it is alleged to have some political significance, and is said to be designed to keep alive the patriotic sentiments of the people in opposition to the supposed efforts that are being made in favor of an "Iberian union," or the restoration of the Miguelite party. Although the events which called forth this demonstration occurred more than forty years ago, these national celebrations are of quite recent date, the first having taken place not more than four years since. They have been skillfully managed by the authorities, the design being to make the 24th of July a permanent national holiday, and have excited an amount of popular and patriotic enthusiasm, judging from the feeling manifested in Lisbon, that gives the stranger every reason to believe that the present royal family has a strong hold upon the affections of a majority of the Portuguese people. These are not demon-

strative in an American or English sense, and there is no shouting for the King, who is allowed to pass without any other recognition than a respectful raising of the hat; but their patriotism and respect for their sovereign are not the less real, or their desire for the preservation of their national independence wanting in sincerity and earnestness. The display on the 24th instant was very largely, if not universally acquiesced in by the people here, reminding me forcibly of the Fourth of July at home, and was kept up with spirit all over Lisbon, by illuminations, fire-works, and other popular methods of public rejoicing, until long after midnight.

That these celebrations have a purpose cannot be doubted. The interest taken in them by the government, the tact displayed in their management, and the evident desire of those in authority to impress upon the people the propriety of making them annual, all point to that end. The prime minister, Senhor A. M. de Fontes Pareina de Mello, is an able statesman, a soldier, and a patriot; and has put the little army of the nation on a respectable footing and in good fighting condition; its actual strength is now about 34,000 men, and its average strength on a peace footing about 25,000, or 8,000 less than the present number. But of these about 4,000 are in the colonies, and mostly in Africa. Of those in Portugal, many are stationed on the Spanish frontiers to prevent violations of Portuguese territory by the bands of either side engaged in the deplorable civil war which has so long convulsed Spain. Senhor Fontes knows his countrymen well, and his policy is generally approved by them. By the celebrations which I have attempted to describe, he keeps before the people a show of the power of the government, and excites popular pride in national independence. The Portuguese, as a people, appear to be decidedly hostile to a union of any kind with Spain, but I am not sure that there are not many Miguelites among them. Their great wish is to be preserved from complications with Spanish affairs, and hence any quiet action to that end on the part of their government gives them faith in it, increases the power of the reigning family, helps to strengthen commercial confidence, to develop agriculture and manufactures, and to increase the prosperity of the country.

That there is anything like a deep-rooted or general feeling of uneasiness here to call forth the utmost military power of the government, I cannot aver; but it is wise in critical times to be prepared, as far as possible, to meet emergencies. That there is a feeling of feverishness as to Spain is natural in the present state of things there, and the course of the government in adopting measures to allay that feeling and give confidence here shows that Portugal is under the guidance of those who deserve well of their country, and are entitled to its support.

I may add that it is quite evident to the resident here that the Miguelite party are not without some power in the country, not that they would use it to effect a union with Spain, but that they would not hesitate, under favorable circumstances, to avail themselves of every means at their command to depose the reigning family, and effect their restoration, is clear. Their influence is not particularly felt in Lisbon, but it exists in certain rural districts, and especially at the city of Braga in the north. But the display on Saturday of the strength of the government, and of its hold upon the confidence of the people, is calculated to keep the Miguelites in check, and prevent them, for some time to come, from giving any serious trouble to the Crown.

I have, &c.,

BENJAMIN MORAN.

RUSSIA.

No. 483.

Mr. Schuyler to Mr. Fish.

No. 26.]

LEGATION OF THE UNITED STATES,
St. Petersburg, Sept. 12, 1874. (Received October 1.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 85, relative to the Brussels congress.

As the proceedings of the congress have been kept secret, and it has been impossible for me to communicate anything more than rumors of its actions and occupations, I have refrained from writing to you on the subject.

I now understand that the protocol of the sessions of the congress has been signed by the delegates of all the powers that were represented therein. The Belgian government has asked the Russian government if it would have any objection now to the publication of the protocol. To this the Russian government readily assents, especially as a French newspaper, *La République*, published a version of the results of the congress which was not strictly in accordance with the truth.

The congress agreed upon the draught of a declaration, which is to be submitted to the governments who were represented in the congress, and in which it is of course possible that alterations may be made before all the governments consent to sign it. The congress, however, is not adjourned, but merely suspended.

The declaration will be left open, so that any government which was not represented in the congress may at any time give its adhesion to the principles declared.

I have, &c.,

EUGENE SCHUYLER.

No. 484.

Mr. Schuyler to Mr. Fish.

No. 29.]

LEGATION OF THE UNITED STATES,
St. Petersburg, Sept. 16, 1874. (Received October 5.)

SIR: I have the honor to inclose to you herewith two copies of a declaration between Russia and Italy for the service of writs and the execution of rogatory commissions. I am informed that the signature of this declaration was brought about by the desire of the Italian government to obtain official French translations of the judicial papers of various kinds, which, up to this time, have been presented in Italy in Russian. By the present declaration all such papers coming either from Russia or Italy must be accompanied by a French translation.

The principle, however, of having the tribunals of one country execute the orders of those of another country seems to be a bad one, and it is to be regretted that it should be sanctioned by agreements of this nature.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure in No. 29.—Translation.]

Declaration of Russia and Italy for service of writs.

By a ukase of the 28th of August last, inserted in the Bulletin of Laws, (No. 74,) the acting senate promulgates the declaration printed below, which was exchanged between the acting imperial minister of foreign affairs and the envoy of the kingdom of Italy at St. Petersburg.

DECLARATION.

The government of His Majesty the Emperor of Russia, and the government of His Majesty the King of Italy, desiring to regulate the service of writs and the execution of rogatory commissions in the two countries, the undersigned, duly authorized to this effect, have agreed to the following provisions:

ARTICLE 1. The two contracting governments pledge themselves to effect the transmission of writs and the execution of rogatory commissions, both in civil and penal matters, through their respective authorities, as far as the laws of the country permit, provided that they be accompanied with a French translation, and that the place of residence of the party referred to in said writs or commissions be designated in a precise manner.

The acknowledgments of writs and summons will be delivered reciprocally, if they are requested; they shall also be accompanied with a French translation.

ART. 2. Writs, summons, and rogatory commissions shall be transmitted diplomatically.

ART. 3. The expense occasioned by the serving of legal writs or summons or by the execution of rogatory commissions must be defrayed by the state to which the request is addressed. Upon the strength of which the undersigned have prepared the present declaration, and have affixed thereon the seal of their arms. Done in duplicate, at St. Petersburg, the 21st June, (3 July,) 1874.

[L. S.]

[L. S.]

—*Bulletin of the Laws.*

WESTMANN,

BARON MAROCHETTI.

No. 485.

Mr. Schuyler to Mr. Fish.

No. 46.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 5, 1874. (Received Nov. 27.)

SIR: I have the honor to inclose to you herewith two copies of a leading article in the "*Journal de St. Petersburg*" of the 20th October, (Nov. 1,) and a translation of the same.

I also send you two copies of the "project of an international declaration regarding the laws and customs of war," as agreed upon by the Brussels congress, and a translation of the same.

I also send to you in the original, as documents, separately, the full protocols of the proceedings of the congress, which are too long for me to translate.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure 1 in No. 46.—Translation.]

THE BRUSSELS CONFERENCE.

[From the "*Journal de St. Petersburg*," 20 October, (1 November,) 1874.]

We publish to-day, as a supplement, the complete collection of the acts of the Brussels conference.

In the interest of those of our readers who follow this question and wish to study it

thoroughly, we have preferred to delay this publication in order to give it entire, rather than in parts.

The reading of the protocols will show how inexact was the impression produced by the premature and abridged revelations of the French press. Not only were the opinions uttered misrepresented by incomplete quotations, but the very character of the conference was gravely altered in its purpose and aim, as well as in its results. Although the protocols with their conciseness give only a restricted idea of the deliberations, it is nevertheless felt how serious, honest, and profound they were. The first uncertainty on the reciprocal dispositions once having been dissipated, it is seen that all the delegates entered into the discussion without foregone conclusions, and with the desire of sincerely and loyally studying the questions, the gravity of which was revealed at every step, and of seeking in common the solutions which were conformable to the general interest.

The very divergences of opinions which were produced there, are the best proof of the urgent necessity there was to submit such questions to a collective deliberation.

This character of investigations is very clearly defined by the conference itself. It could not have any other character, and in keeping itself on this ground it has certainly better fulfilled its mission than if it had desired to formulate decisions which could have conciliated in appearance the divergences of opinion only at the expense of truth and reality.

It is this same thought which has determined the governments to bring these debates to the light of publicity and public discussion.

There is no question of passing laws, of imposing regulations by authority. The sad necessities of war being given, the question is to know if, and by what means, they can be restricted to the greatest advantage of humanity by the definition and observance of certain rules which ought to be accepted by all, since they have in view the interest of all.

It belongs, then, to public opinion to declare itself. The governments will naturally be inspired by the rational convictions which will be set forth on all these grave questions of general interest. This is, too, one of the essential traits which distinguished the Brussels conference. It has set out in full the questions, precisely stated the difficult and painful points. It has opened a way where progress is without limits. By degrees, as the problems shall be elucidated by discussion or experience, all the points which are gained will be added to those consecrated by time, custom, and tradition.

Little by little they will complete the work sketched out to-day, and we can only congratulate ourselves on it, since in reality this work is undertaken for the profit of humanity. The Brussels conference has prepared the field; the governments, aided by public opinion, will sow there the grain; time will ripen the harvest.

These considerations appear to us to define as well the part which belongs to the Imperial government of Russia in this enterprise, which it initiated. This part has been very variously and very imperfectly appreciated. There has been a desire to represent the Imperial government as more directly interested than it really is, and to attribute to it the success according to some, or the failure, according to others, of the Brussels conference, as a merit on one side or as a check on the other. It is very evident that the Imperial government has no other merit to claim than that of having stated questions and having provoked a discussion in a general interest. As to the result, it is no more interested than any other government.

If war can be rendered less onerous by certain regulations universally accepted, Russia will profit by it like the rest of the world; if it must continue to be carried on without rules and limits, Russia, like other states, can only guarantee herself or defend herself as she best can, and as far as that is concerned she is not the least favorably placed. Whatever may come of it, the imperial government is entirely disinterested, or rather its interest is not different from that of all. The conciliatory attitude of the Russian delegates has been in this respect the faithful reflection of the intentions and views of their government.

As to the further progress which this question will probably follow, we learn that the governments which took part in the Brussels reunion have been invited to examine the acts of the conference and transmit to St. Petersburg their conclusions, observations, and propositions.

When once these materials are reunited the question will be raised whether to formulate the points admitted in an act, the form of which shall be determined by common agreement, or to call a new conference for the discussion and adoption of a new and final project of such a nature as to conciliate all opinions.

So far as we are informed, most of the governments have already shown to the Imperial cabinet their best will to develop in a general understanding the thought of humanity, the initiative of which is due to His Majesty the Emperor.

[Inclosure 2 in No. 46.—Translation.]

[Text modified by the conference.]

PROJECT OF AN INTERNATIONAL DECLARATION CONCERNING THE LAWS AND CUSTOMS OF WAR.

Of military authority on the territory of the enemy's country.

ARTICLE 1. A territory is considered as occupied when it is placed actually under the authority of the enemy's army. The occupation extends only to the territories where that authority is established and can be exercised.

ART. 2. The authority of the legal power being suspended, and having passed actually into the hands of the occupant, the latter shall take all measures in his power with a view to re-establish and assure, as much as possible, order and public life.

ART. 3. To this effect he shall maintain the laws which were in force in the country in time of peace, and shall not modify, suspend, or replace them, except in case of necessity.

ART. 4. The functionaries and employés of every order who consent on his invitation to continue their functions shall enjoy his protection. They shall not be dismissed or disciplinarily punished unless they fail in the obligations accepted by them, and shall not be delivered up to justice unless they betray them.

ART. 5. The army of occupation shall only levy the imposts, duties, rights, and tolls already established for the benefit of the state, or their equivalent, if it is impossible to collect them, and as much as possible in the form and according to the existing usage. It shall employ them in defraying the expenses of the administration of the country in the same proportion as was obliged to be done by the legal government.

ART. 6. The army which occupies a territory shall only be able to seize the money, the funds, and securities properly belonging to the state, the depots of arms, means of transport, warehouses, and provisions, and in general all movable property of the state useful in the operations of war.

Railway material, land-telegraphs, steamboats, and other vessels, not comprised in cases ruled by maritime law, as well as the depots of arms, and in general every kind of munition of war, although belonging to societies or private persons, are equally useful means in the operations of war, and cannot be left by the army of occupation at the disposition of the enemy. Railway material, land-telegraphs, as well as steamboats and other vessels above mentioned shall be returned and indemnities settled in time of peace.

ART. 7. The state in occupation shall only be considered as administrator and usufructuary of public buildings, lands, forests, and agricultural establishments belonging to the state of the enemy and found in the country occupied. It shall be obliged to keep safe the funds of these properties, and administer them according to the rules of usufruct.

ART. 8. The goods of corporations, those of establishments consecrated to religious worship, to charity and instruction, to the arts and sciences, even belonging to the state, shall be treated as private property.

Every seizure, intentional destruction, or degradation of similar establishments, of historical monuments, of works of art or of science, must be prosecuted by the competent authorities.

Who is to be recognized as a belligerent party—combatants and non-combatants.

ART. 9. The laws, rights, and duties of war apply not only to the army, but also to the militia and to the corps of volunteers uniting the following conditions:

1. Having at their head a person responsible for his subordinates;
2. Having a distinctive sign, fixed and recognizable at a distance;
3. Carrying arms openly; and
4. Complying in their operations with the laws and customs of war.

In those countries where the militia constitute the army or make part of it, the denomination of army shall include such militia.

ART. 10. The population of an unoccupied territory which on the approach of the enemy spontaneously takes up arms to combat the invading troops, without having had time to organize itself in conformity with article 9, shall be considered as a belligerent if it respects the laws and customs of war.

ART. 11. The armed forces of the belligerent parties may be composed of combatants and non-combatants. In case of capture by the enemy, both of them shall enjoy the rights of prisoners of war.

Means of injuring the enemy.

ART. 12. The laws of war do not recognize in belligerents an unlimited power as to the choice of means for injuring the enemy.

According to this principle are notably interdicted—

- a. The employment of poison or poisoned arms.
- b. The murder by treachery of individuals belonging to the nation or army of the enemy.
- c. The murder of an enemy who, having laid down his arms or having no more means of defense, surrenders at discretion.
- d. The declaration that quarter will not be given.
- e. The employment of arms, projectiles, or matters causing superfluous injuries, as well as the use of projectiles prohibited by the declaration of St. Petersburg of 1868.
- f. The abuse of the flag of truce, of the national flag, or of military insignia, and of the uniform of the enemy, as well as of the distinctive signs of the Geneva convention.
- g. Every destruction or seizure of an enemy's property which is not imperiously commanded by the necessity of war.

ART. 14. The tricks of war, (*ruses de guerre*,) and the employment of means necessary to obtain information about the enemy and the country, (excepting the dispositions of article 36,) are considered as legal.

Sieges and bombardments.

ART. 15. Fortified places can only be besieged. Towns, agglomerations of habitations, or open villages, which are not defended, can neither be attacked nor bombarded.

ART. 16. But if a city or place of war, collection of habitations, or village, is defended, the commandant of the besieging troops, before undertaking the bombardment, except in the case of an attack, shall do all that he can to notify the authorities thereof.

ART. 17. In such a case all necessary measures must be taken to spare, as far as possible, buildings consecrated to divine worship, to the arts and sciences and to charity, hospitals and places for collection of the sick and wounded, on condition that they are not employed at the same time for a military purpose.

The duty of the besieged is to denote these edifices by special visible signs, which are to be indicated in advance to the besieger.

ART. 18. A city taken by assault shall not be given up to pillage by the victorious troops.

Spies.

ART. 19. No one can be considered as a spy except a person acting clandestinely, or under false pretenses collects or seeks to collect information in places occupied by the enemy for the purpose of communicating it to the adverse party.

ART. 20. A spy taken in the act shall be judged and treated according to the laws in force in the army which has captured him.

ART. 21. A spy who rejoins the army to which he belongs, and who is later captured by the enemy, shall be treated as a prisoner of war, and incur no responsibility for his previous acts.

ART. 22. Military men without disguise, who have penetrated into the zone of operations of the hostile army in order to gather information, shall not be considered as spies.

In the same way military men, (and also civilians openly accomplishing their mission,) charged with the transmission of dispatches destined for their own or the enemy's army, shall not be considered as spies if captured by the enemy.

To this category belong equally, if captured, individuals sent in balloons to transmit dispatches and in general to keep up communication between the different parts of an army or territory.

Prisoners of war.

ART. 23. Prisoners of war are legal and disarmed enemies.

They are in the power of the enemy's government, but not in that of the individuals or bodies who have captured them.

They are to be treated with humanity. Every act of insubordination authorizes in respect to them the necessary measures of rigor.

Everything that belongs personally to them, except their arms, remains their property.

ART. 24. Prisoners of war can be subjected to confinement (internement) in any city, fortress, camp, or locality whatsoever, with the obligation of not going beyond certain fixed limits, but they can only be imprisoned as a measure of indispensable security.

ART. 25. Prisoners of war can be employed on certain public works which have no direct relation to the operations in the theater of war, and which are not fatiguing or humiliating to their military rank if they belong to the army, or to their official or social position if they do not form part of it.

They can also, by conforming to the regulations to be fixed by the military authority, take part in the labors of private industry.

Their pay shall serve to ameliorate their position, or will be accounted for to them at the moment of their liberation. In this case the expenses of maintenance can be deducted from this pay.

ART. 26. The prisoners of war shall in no way be obliged to take any part whatever in the operations of war.

ART. 27. The government in whose power the prisoners of war are, must pay for their maintenance.

The conditions of this maintenance can be established by a mutual understanding between the belligerent parties.

In default of this understanding, and as a general principle, prisoners of war shall be treated, as regards food and dress, on the same footing as the troops of the government which shall have captured them.

ART. 28. Prisoners of war are submitted to the laws and regulations in force in the army in the power of which they are. It is permitted, after summons, to make use of arms against the prisoner of war who is escaping. When retaken, he can be subjected to disciplinary punishment or to a more severe surveillance.

If after having succeeded in escaping he is again made prisoner, he is liable to no penalty for his previous flight.

ART. 29. Every prisoner of war is obliged to declare, if he is questioned in this respect, his true name and rank, and, in case of his infringing this rule, he shall be exposed to a restriction of the advantages accorded to prisoners of war of his category.

ART. 30. The exchange of prisoners of war is regulated by a mutual understanding between the belligerent parties.

ART. 31. Prisoners of war can be put at liberty on parole if the laws of their country [authorize] it; and in such a case they are obliged, on the guarantee of their personal honor, to fulfill scrupulously, both toward their own government and toward that which has made them prisoners, the engagements which they shall have contracted. In the same case their own government ought neither to exact nor expect of them any service contrary to their given parole.

ART. 32. A prisoner of war cannot be forced to accept his liberty on parole; in the same way the hostile government is not obliged to accede to the request of a prisoner asking for his freedom on parole.

ART. 33. Every prisoner of war liberated on parole and retaken while bearing arms against the government towards which he has engaged his honor can be deprived of the rights of a prisoner of war, and be brought up before the tribunals.

ART. 34. Those persons can also be made prisoners who, while with the armies, do not directly make part of them, such as correspondents and reporters to newspapers, vivandières, sutlers, &c. Nevertheless, they should be provided with an authorization emanating from a competent power, and with a certificate of identity.

The sick and wounded.

ART. 35. The obligations of belligerents concerning the service of sick and wounded are regulated by the Geneva convention of the 22d August, 1864, subject to the modifications which may be made to it.

The military power with regard to private persons.

ART. 36. The population of an occupied territory cannot be forced to take part in military operations against their own country.

ART. 37. The population of an occupied territory cannot be forced to take an oath of allegiance to the hostile power.

ART. 38. The honor and the rights of family, life, and the property of individuals, as well as their religious convictions and the exercise of their worship, are to be respected. Private property cannot be confiscated.

ART. 39. Pillage is formally forbidden.

Contributions and requisitions.

ART. 40. As private property must be respected, the enemy can demand of communities or inhabitants nothing more than the contributions and services relating to the necessities of war, which are generally recognized in proportion to the resources of the country, and which do not imply for the population the obligation of taking part in the operations of war against their own country.

ART. 41. The enemy which raises contributions, either as an equivalent of the taxes, or as requisitions to be paid in kind, or as a punishment, shall proceed as much as possible according to the laws which regulate the taxes in force in the occupied territory.

The civil authorities of the legal government shall lend their assistance to this, if they shall have remained in their functions.

Contributions can only be imposed on the responsibility of the general-in-chief, or of the superior civil authority established by the enemy in an occupied territory.

For every contribution a receipt shall be given to the person who pays it.

ART. 42. Requisitions shall be made only with the authorization of the commandant in the locality occupied.

For every requisition an indemnity shall be granted or a receipt delivered.

Flags of truce.

ART. 43. That person is considered as bearing a flag of truce who is authorized by one of the belligerents to enter into negotiations with the other, and who presents himself with a white flag, accompanied by a trumpeter, (bugler or drummer,) or also by a standard-bearer.

He shall have the right to inviolability, as well as the trumpeter, bugler or drummer, or the standard-bearer, who accompanies him.

ART. 44. The chief to whom a flag of truce is sent is not obliged to receive it under all circumstances and in all conditions.

He is allowed to take all necessary measures to prevent the bearer of a flag of truce from profiting by his sojourn within the enemy's lines to the prejudice of the latter, and if the bearer of a flag of truce has rendered himself culpable of this abuse he has the right of retaining him temporarily.

He can declare in advance that he will not receive flags of truce during a fixed time. Flags of truce which shall present themselves after such a notification from the side of the party which shall have received it shall lose the right to inviolability.

ART. 45. The bearer of a flag of truce loses his right to inviolability if it is proved in a positive and incontrovertible manner that he has profited by his privileged position to provoke or commit an act of treason.

Capitulations.

ART. 46. The conditions of capitulations are to be debated between the contracting parties.

They shall not be contrary to military honor.

Once fixed by a convention, they must be scrupulously observed by both parties.

Armistices.

ART. 47. An armistice suspends the operations of war by a mutual agreement of the belligerent parties. If its duration is not determined, the belligerent parties can at any time resume operations; provided, however, that the enemy is notified of it in proper time, conformable to the conditions of the armistice.

ART. 48. An armistice can be general or local. The first suspends everywhere the operations of war of the belligerent states; the latter, only between certain fractions of the belligerent armies, and within fixed lines.

ART. 49. The armistice ought to be official, and without delay notified to the competent authorities and to the troops. Hostilities are suspended immediately after the notification.

ART. 50. It depends on the contracting parties to fix in the clauses of the armistice the relations which can exist between the population.

ART. 51. The violation of the armistice by one of the parties gives to the other the right of denouncing it.

ART. 52. The violation of the clauses of the armistice by private persons, acting on their own initiative, gives right only to demand the punishment only of those who are guilty and an indemnity for the losses received, if any.

Belligerents confined and wounded cared for by neutrals.

ART. 53. The neutral state which receives on its territory troops belonging to the belligerent armies shall confine them as far as possible from the theater of war.

It shall keep them in camps, and even imprison them in fortresses or in fit places.

It shall decide if the officers can be left free on taking an engagement on parole not to quit the neutral territory without authorization.

ART. 54. In default of a special convention, the neutral state shall furnish to the persons so confined the food, clothing, and help commanded by humanity.

When peace is made, indemnity shall be given for the expenses occasioned by this confinement.

ART. 55. The neutral state can authorize the passage over its territory of the wounded or sick belonging to the belligerent armies, with the reserve that the trains which bring them shall not transport other soldiers or materials of war.

In such a case the neutral state is bound to take the necessary measures of safety and control.

ART. 56. The Geneva convention is also applicable to the sick and wounded on neutral territory.

Final protocol.

The conference assembled at Brussels on the invitation of the government of His Majesty the Emperor of Russia, to deliberate on a project of an international regulation of the laws and customs of war, has examined the project submitted to its discussion in a spirit conformed to the lofty thought which had presided at its convocation, and which all the governments there represented have received with sympathy.

This thought had already found its expression in the declaration, exchanged in 1868 between all the governments, relative to the prohibition of explosive balls.

It had been unanimously agreed that the progress of civilization ought to have for its effect to attenuate as far as possible the calamities of war, and that the sole legitimate end that states should propose to themselves during war is to enfeeble the enemy without inflicting on him useless suffering.

These principles have, then, met with universal assent. To-day the conference keeping in the same way, agrees with the conviction expressed by the government of His Majesty the Emperor of Russia, that there is a step more to be made in revising the laws and general customs of war, either in order to define them more precisely or to have, by common agreement, certain limits destined to restrict as far as possible their rigors.

War being thus regulated would bring about fewer calamities, would be less subjected to the aggravations which are brought to it by uncertainty, want of foresight, and the passions excited by the struggle which would conduce more efficaciously to what ought to be its final ends; that is to say, the establishment of good relations and of a more solid and durable peace between the belligerent States.

The conference has believed that it could not better have complied with these ideas of humanity than by inspiring itself with them equally in the examination of the project submitted to its deliberations. The modifications which have been introduced into it, the commentaries, reserves, and separate opinions which the delegates have believed it their duty to insert in the protocol, according to their instructions, and the particular points of view of their governments, or their personal opinions, form the whole of its work. It believes that it can report to the respective governments of which it is the delegate, as a conscientious inquiry of a nature to serve for the base for a further exchange of ideas and for a development of dispositions of the Geneva convention of 1864, and the declaration of St. Petersburg of 1868. It will belong to them to appreciate what in this work can become the object of an understanding and what will necessitate a further examination.

The conference expressed, in terminating the conviction, that its debates will, in any case, have brought light on these important questions, the regulation of which, if it results in a general understanding, will be a real progress for humanity.

Done at Brussels the 27th August, 1874.

Signed by all the delegates.

No. 486.

Mr. Schuyler to Mr. Fish.

No. 48.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 16, 1874. (Received December 5.)

SIR: I have the honor to inform you that a law has recently been signed by the Emperor for the registration of marriages and births among the dissenters from the orthodox church. By this law an end is put to the period of persecution of the dissenters, which has now lasted for more than a century.

Although of late years the laws against the milder forms of dissent have not been put into execution, still they were under a ban because

their marriages were not legal unless celebrated by priests of the orthodox church. For that reason many persons have had recourse to the church to celebrate their marriages, although they have still been in heart dissenters, and often more bitter opponents than they were before. Many, on the contrary, have denied the necessity of any form of marriage, and have thus given rise to new sects, which are looked upon as extremely dangerous to the well-being of the country.

The present law is exceedingly liberal, in that it not only allows marriages to be concluded among the dissenters by simple registration, without the necessity of any religious form, but it gives the possibility of legalizing marriages previously contracted by dissenters, as well as of legalizing the births of the children, even though one of the parties to the marriage be dead. One slight exception remains: The persons to be married must have belonged to the dissenting community from their birth. This is perhaps intended as a threat against proselytism, but experience has shown that the impossibility of contracting legal marriage is no obstacle to the spread of dissenting belief. In some respects, indeed, the new law gives dissenters greater privileges than it does to orthodox Christians. Their marriages are legalized on their simple declaration, subject, indeed, to the general laws of the empire, but not subject to any special regulations with regard to days, times, or religious observances to which the orthodox are compelled to submit. The divorces, too, among the dissenters, and all questions regarding marriage, are to be settled by a civil court; whereas orthodox Russians can only be divorced by a long process to be carried on before the ecclesiastical authorities. The causes for divorce are, however, the same as for the orthodox population, *i. e.*, adultery, or physical incapacity. The Protestant sects are allowed greater liberties of divorce in accordance with the dogmas of their church.

This legalization, if I may so call it, of dissent, will, no doubt, have considerable influence, and this law must be regarded as one of the most important reforms of which the reign of the present Emperor has been so fertile.

The number of known dissenters who will profit by the new law is estimated to be at least a million, while the number of secret dissenters rises to fully eight or ten millions.

I have, &c.,

EUGENE SCHUYLER.

No 487.

Mr. Schuyler to Mr. Fish.

No. 55.]

LEGATION OF THE UNITED STATES,

St. Petersburg, December 14, 1874. (Received January 4, 1875.)

SIR: I have the honor to inclose to you a copy and a translation of the circular of the Russian government to its diplomatic agents abroad, dated 26th September, (8th October,) on the subject of the Brussels conference, by which you will see that it desires to obtain the opinions of the different governments on the propositions submitted to the conference, and the revised project as agreed upon there, in order to formulate these propositions in some definite international act or treaty. I also inclose to you abstracts of various articles from Russian journals,

as well as one from the Pall Mall Gazette, relating to the general subject of the conference, and the ideas entertained with regard to its action, which will, I think, be of great interest to you. The articles from the Journal de Saint Petersburg may be regarded as official, and those in the Saint Petersburg Gazette were probably inspired from the foreign office. The Russian World is carried on in opposition to the ministry of war, and its articles must therefore be considered as subject to that influence.

The most of the governments which took part in the conference, and to which the circular above referred to has been presented, have already taken measures to discover what the action of each of the others on the subject will be. So far as I am at present informed matters are as follows:

The German government, while at first seeing difficulties in the way of the project, finally perceived that it contained many advantages for it, and has agreed to support the action of Russia.

It is now almost certain that the same course will be pursued by the government of Austria-Hungary.

The Spanish government states that it will agree to all those articles which were unanimously agreed upon at the conference, but as to the others it reserves its decision, although it might be willing to yield to a majority of votes.

The government of Holland wishes to adjourn the matter for some time in order to have the question fully discussed in the press, as without that it would be impossible to come to any decision.

The Swiss government states that the matter has not yet been presented to the Federal Council, and that it cannot return a definite answer until the question has been there discussed. It is probable, therefore, that it will merely acknowledge the receipt of the circular.

The Belgian minister for foreign affairs stated, on inquiry being made, that his government was not anxious to return a speedy answer. It considered that the Russian government had too soon forgotten the check it had met with at the conference, and was somewhat surprised at its so soon renewing the question. It was impossible for a constitutional government to decide the matter without consulting the chambers, and this could not be done at once.

The French government is in a very delicate position; it does not desire to agree to the project, and at the same time it is equally unwilling to chill the friendship and good-will of Russia, while it sees that Russia, Germany, and Austria-Hungary, will be able to adopt a rule of action which may in future be detrimental to the interests of France, as well as to those of the smaller states of Europe.

None of the governments above mentioned, except that of Germany, had, up to the date of my information, returned any definite answer to Russia.

The English government has also not yet answered, and, judging from the tone of the English press, it is scarcely probable that it will accept the Russian propositions.

I am of the belief that the Emperor Alexander, who is a very humane man, took up the idea of the Brussels conference from motives of humanity alone, though it would appear that the project had not then received sufficient reflection. But both Russian and German statesmen soon saw that a project like this would be an advantage to the strong military powers of Europe, and it is difficult to avoid the belief that the motives of humanity are now in the background, and that the project is pushed partly from a natural desire for success, and partly

from motives of state policy. The small states in conflict with the great ones would be swallowed up in any case, but this could be done much more easily and quickly should regulations be adopted which, by restricting the area of the operations of war, would also restrict the right of the populations to defend themselves. In view of this and of the feelings of the governments of the smaller states on this subject, it seems at present improbable that the wish of the Russian government can be realized, and that any treaty or declaration can be drawn up which will be signed by all the powers of Europe, and thus become truly international.

It is pertinent, however, to inquire whether, even without such an international act, a change has not really been made in international law by the Brussels conference? Should the three great powers of Northeastern Europe agree on any project of this nature, they will, in case of war against other states, have a possibility of putting it into execution, and of thus forcing other states to submit to it. Moreover, as international law has been founded on the universal consent of all countries, will not such a withdrawal of three great states from the international laws of war, as agreed upon up to this time, as is implied by their acceptance of this project, really deprive those laws in this respect—universal consent—of their validity?

The Russian government is, however, still very hopeful that its efforts will be successful. As will be seen from the newspaper articles, there is a tone of bitterness against all who question the motives of the Russian government, or the results obtained by its action.

So far as concerns the project itself, Baron Jomini, the president of the conference, said to me the other day, in a private conversation, that the project was by no means so severe as the regulations prepared by Professor Lieber, and put into force by the United States during the recent rebellion.

You will see from what I have said that any talk about a future conference, either at St. Petersburg or elsewhere, or of the character of its members, is, for the present, premature.

I have heard that there has been some talk of the probable action of the United States; but no inquiries or remarks have been addressed to me on the subject by any member of the government. I shall not fail to keep you informed of the progress of the matter.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure 1 in No. 55.—Translation.]

Circular from the Russian Government.

ST. PETERSBURG, September 26, 1874.

Several of the delegates at the Brussels conference have asked us about the further steps which will be taken with regard to the questions discussed there; that is to say, whether the imperial government will propose a new project on the basis of the opinions stated at the conference, or whether it will wait to know beforehand the judgment of the different governments on these questions.

I think it, in consequence, necessary to inform you of the manner in which this is received by the imperial cabinet.

The very result of the labors of the conference appears to us to clearly indicate the steps which are to be taken.

It made an investigation, (*enquête*.)

Its protocols reproduce all the opinions which were stated there, as well on the points on which an agreement was arrived at as on those on which there were divergences of opinion, or on which reserves were made. The project, as remodeled by the

commission, contains the forms of the articles as agreed upon by the compromises which were the consequence of the discussions.

Finally, the final protocol submits the whole of these labors to the examination of the respective governments as being able to serve for the base of a further exchange of ideas.

It follows from this, in our opinion, that the governments, once put by the government of His Majesty the King of the Belgians, in possession of the complete and authentic acts relating to the conference, will have to examine the proposed solutions, and to present either their conclusions on the articles which are susceptible of an immediate agreement, or their observations or propositions on those which furnish matter for divergences of opinion.

It seems to us that St. Petersburg would be the most suitable place for the reunion of all these conclusions, observations, and propositions.

As soon as the imperial cabinet shall be put into possession of all these materials it will consider the question of formulating the points agreed upon in an act destined to be the object of an exchange of declarations between the powers, or of submitting to them a new project, or finally of calling a new reunion of the delegates or representatives of the governments to bring the divergent opinions to a final agreement, which would be formulated in a definitive act.

Please bring the preceding to the knowledge of the government near which you are accredited, and ask it in consequence to transmit to us, as soon as can be done, the conclusions, observations, or propositions which will be suggested to it by the examination of the whole of the labors of the conference.

WESTMANN.

[Inclosure 2 in No. 55.—Translation.]

THE BRUSSELS CONFERENCE.

[Abstract of the articles in the St. Petersburg Gazette.]

After commencing with some considerations on the meaning and importance of the conference, and rapidly sketching the course of its labors, the author enters upon the examination of the matters which were the object of deliberations.

Upon the proposal of the president there were first of all placed on the order of the day those articles of the project presented by the Russian government which could be expected to raise the least dissent, and with regard to which unanimous decisions were most probable. Such were the articles on the means of injuring an enemy, on bombardment, on spies, flags of truce, prisoners of war, and on the sick and wounded. At the time of the discussion of these matters, two currents of opinion soon made their appearance; some showed their desire to see all kinds of humane measures adopted, on condition, however, that they should be practicable in time of war; others, on the contrary, aimed at restraining violent means forcibly demanded by war to such a point that every military operation would thereby become impossible. There can be no doubt that the first opinion alone, possessing, as it does, a practical basis, should have finally prevailed. But is that not a true success, and a success much more solid than that which would have been considered as attained in making declarations of the most philanthropic kind, but incompatible with the state of our present civilization, which has not succeeded in eliminating war from the active means employed by states in their conflicts?

Regarded from this point of view, the decisions of the Brussels conference concerning the bombardment of towns, prisoners of war, &c., deserve complete sympathy.

We find in them not only principles clearly determined, and which are already admitted in theory by the science of the law of nations, but also declarations justly meriting consideration, as bold steps in the path of progress. Thus, the conference has resolutely pronounced itself against the pillage of towns taken by assault from the enemy; it has declared that only fortified and defended cities can be submitted to bombardment. Articles 23-35 of the declarations sanction the humane point of view with which the treatment of prisoners of war is inspired, while articles 12-15 enumerate the means which belligerent powers have the right to employ.

The protocols of the conference show us that respecting all these questions there has been success in coming to an understanding and in taking unanimous decisions, consequently in reconciling the two divergent opinions just mentioned.

But when more debated matters were afterward brought forward, the defenders of the idealistic point of view showed themselves less easy to convince; they formulated their opinions under all reserve, while waiting the ratification of them by their governments; this is what took place with regard to the questions on the rights of belligerent parties, on contributions and requisitions.

From the commencement of the sittings of the conference, the delegates from Belgium and the Low Countries believed it to be their duty to declare that they could not adhere to any measure tending to restrict the right of national defense, at the same time manifesting their firm attachment to peace. Declarations in the same sense were made by the delegates of Portugal, Spain, Denmark, and Switzerland, and partially, also, by those of Sweden and Turkey.

The representatives of all these states lost no opportunity of protesting against the restriction imposed on national defense.

We have attentively examined the protocols of the conference and must avow our inability to seize clearly the bearing of the protestations and desires formulated by the delegates of these governments.

In the project presented at the conference by the Russian delegates, there was found very clearly established the fundamental idea that if an enemy's territory is subjected to occupation and the army of occupation is in fact in a position to maintain its authority, the legal power of the national government is suspended during the occupation.

This situation is to such point evident, and so conforms to the nature of things that a venerable practice has already assured its sanction, and that it would be vain to wish to protest against it.

Not to wish to adopt this point of view in which one ought justly to recognize the value of a political axiom, not only appears useless, but can give place to the gravest calamities for a country afflicted with an invasion. In fact what harm can be done to the enemy by an unarmed and unorganized civil population? To mention a recent example, were the hostile acts of the population of some French departments against the German invaders during the last war able to arrest the victorious march of the German army?

From the moment that the justice of this point of view is recognized we cannot but adhere to articles 1-8 of the declaration of the conference, which are its logical consequence. On reading these articles and comparing them with the practice of the Franco-German war, we can be convinced that they reprove some of the measures employed by the German military chiefs, and that they oppose serious obstacles to the arbitrary conduct of invaders.

This explains why the representatives of some small states, little satisfied at first with the project, saw themselves finally obliged to avow that the declarations in question ought to be considered as a salutary limitation of the right of the force and calamities of war.

One point, which at the conference gave place to not less animated discussions, was that of knowing how to establish the quality of belligerent parties. This time the views of the Russian government again met with the opposition of those for whom to make the right of taking part in the defense of the country depend on exterior conditions is illegitimately to restrict a state's means of defense. On reading the report of the debates of the conference we find the same arguments that we often hear emitted in discussions. No bridle, they tell us, ought to check the patriotism of citizens wishing to lend the support of their arm in defense of their native land, and it would be to do violence to the noblest sentiments of man if we wished to demand that only the organized forces should take part in the national defense.

Russian sentiment ought especially to repudiate these restrictions, and the glorious traditions of 1812 are there to attest that it will never submit to them.

It is easy, however, to discover how vicious is such an argument. That to which the Russian proposition tended did not, the least in the world, consist in restricting the means of national defense, but in holding aside from the struggle those elements which would wish to sacrifice themselves in it uselessly, and would only succeed in drawing down upon the civil population the rigors of repression. Its object is to establish conditions in which defenders of their territory may be distinguished from marauders and pillagers, and escape the fate which in all justice the laws of war inflict on the latter. This is the aim which the Russian government pursued in proposing its project, and the adhesion which it has met with in the heart of the conference of delegates from powers jealous of their rights of defense well proves that the limits of the possible were not found overstepped.

Article 9 of the declaration stipulates that the laws, rights, and duties of war do not apply alone to the army, but also to the militia and to the bodies of volunteers uniting the following conditions:

1. Having at their head a person responsible for his subordinates;
2. Having a fixed and distinctive sign recognizable at a distance;
3. Openly carrying arms; and
4. Conforming themselves in their operations to the laws and customs of war.

In applying to Russia principles admitted by the conference, it will be seen that if, in case of war, a chief of a commune convoke the member of the communal assembly, enroll them, furnish them with a distinctive exterior sign, subject them to his command, and compel them to carry openly their arms, the troops thus organized would

enjoy incontestably the rights of belligerents, on condition, of course, that it observe the laws of war.

As far as we know, the practice of wars, even that of recent wars, has never been in conformity with principles more humane, and at the same time more easy to follow, than these.

During the war of 1870 the German military authority showed itself much more severe in demanding that the French volunteers should have not only nominative authorizations of enrollment, emanating from the minister of war, but that they should besides be placed under the command of French officers.

Nothing like this is exacted by the declaration of Brussels.

Some foreign journals, in conclusion, have spread the opinion that Russia has experienced a check at Brussels. But, after having attentively studied the protocols, it is difficult for us to explain what could have given birth to such a rumor, and what could make it believed that the project presented by the Russian government was rejected.

Thus, as it appears from the protocols, the Russian delegates have constantly insisted that no formal treaty should be the result of the conference; that Russia, in convoking the representatives of European powers for the examination of its project, only wished to ascertain preliminarily the points of view and the opinions of different governments in order to be able in the end, if possible, to conclude a formal and obligatory treaty. The purpose of the conference was then to proceed to an investigation of the questions raised by the Russian government, and not to give to those problems a definite solution. Accordingly, as it appears to us, this purpose has been completely attained at Brussels.

We consider as also erroneous the opinion of those who believe that Russia herself will withdraw her hand from the work due to her initiative. To judge from the protocols, the delegates of Germany, of Austria-Hungary, of France, and of Italy have nearly always agreed with that of Russia, and it is to be believed that a definite arrangement between these powers will be able to be made at any day. If this supposition be right, necessity will consequently induce other states to adhere to the convention which the great powers will have concluded. In any case the definite solution of the questions to be examined at the Brussels conference is, then, as much in the interest of other states of Europe as in that of Russia. We believe even that if there is any one to whom it ought to be a matter of special importance to see barriers raised in the employment of force, and to see clearly determined the rights and duties of belligerents, it is precisely the small states limited in their means of defense. It is curious to notice that the representatives of these states did not cease to make protestations at the conference of the love of peace which animates their governments, at the same time declaring it impossible for them to adhere to the Russian propositions. It is against this pretension of being alone inspired by love of peace that the following passage from the report made by the president of the conference at its full meeting of the 26th August was directed:

“Permit me to end this statement by some personal considerations in my own name and in that of my two colleagues.

“Several of the delegates have believed it necessary on several occasions to profess the exclusively pacific views of their governments, resulting from the particular position which politics, history, and geography have given them.

“We can, gentlemen, tender the same assurances in the name of our country.

“Russia is a great power; great by her strength, by her extent, her unity, her national spirit; she is none the less profoundly devoted to the interests of peace. Her greatness even removes her from all idea of conquests or of aggressive wars, and her defensive force is such to-day that she has no fear of any attack.

“It is, then, with an entire disinterestedness that our government has proposed the re-union of this conference and submitted a project to its deliberations. It has thought that there were grave questions which demanded a solution for the good of all. Russia feels herself too much involved in the general interest to withdraw herself from the duties which result for her from her great and strong position in Europe.”

In fact the Brussels conference appears to us precisely as a work undertaken by Russia in view of the general welfare, and we ardently desire that Russia may conduct it to a good termination. The skill displayed in her exterior politics is an earnest to us that she will succeed with it.

[Inclosure 3 in No. 55.—Translation.]

THE BRUSSELS CONFERENCE.

[Abstract of an article in the “Russian World.”]

We recall to our readers that we have always been adverse to the aim and practical bearing of the project of the Brussels conference, which, in our opinion, could only

render more sensible and could not lessen the defects of the law of war as it at present exists.

The results have fully justified our suppositions. The recent publication of the protocols of the conference removes all further doubt that that meeting, on which so many hopes were founded by persons little acquainted with the actual state of international law, has not attained and could not attain its purpose, even within the narrow bounds to which it was confined by the energetic objections and observations of the British cabinet.

After long and lively debates, in which the part of opposition belonged principally to the secondary states, who, it seemed, should yet have had an interest in the realization of all kinds of humane projects in international relations, we have obtained as the result a project of declaration partially sanctioning a practice established long since, and expressing, moreover, some general grounds substantially deprived of obligatory power for any one whatever. Each of the states which took part in the conference has rejected the articles touching its particular interests, and has shown more or less indifference with regard to the others, so that a general understanding has only been possible on questions about which there was not the shadow of a doubt, and which had never been the subject of any discussion. All that could be considered as an innovation has finally received a form so original that in the end there was no innovation at all.

Thus, as to what concerns the question of national defense, after having defined the conditions under which volunteers can assist in military operations, we have decreed, on the request of the Spanish and Swiss delegates, a supplementary rule, in virtue of which "the population of a territory, if on the approach of the enemy it take up arms spontaneously to resist the invading troops, without having had time to organize itself conformably to the preceding article, shall be considered as a belligerent if it respect the laws and customs of war."

Who shall judge whether the population has had time to organize itself regularly, and if it respects the laws of war? It is evident that such a question can only be decided by force, the only argument that has always determined every kind of military problem.

The single difference is that acts which up to the present rested exclusively on force, will now have a weak ground of support in a universally recognized law.

In the same way the project of the declaration recognizing in one article the inviolability of private property admits in another the destruction or seizure of all kinds of property, in case of extreme necessity, for the operations of war, and the valuation of the worth of such property is made, as has always been the case, by the party who has taken a measure of this kind. Nearly all the articles of the project are followed by analogous reservations when they treat directly of the military operations, such as the damage caused by bombardment, the means of raising contributions, &c. Only the part relative to prisoners of war, as not treating directly of military operations, is fully defined in its contents, although in reality it contains very little that is new.

In comparing the text of the articles adopted by the conference with the projects submitted to its examination, it is not difficult to notice that the latter, which had in view the strengthening of the advantages enjoyed by military superiority rather than the safe-keeping of the interests of national defense and of humanity, have been modified in a remarkable manner under the influence of the eloquent protestations of the delegates from small states, who considered the projects in question as an attempt on their rights and legitimate wants. The cause of this opposition is easy to understand when we take into account the general character of the original projects, in which the first place was reserved for the rights of armies of occupation and the limitation of national defense. Even in its actual form the project of the declaration treats much more of the rights of the conqueror than was necessary, in view of the undoubtedly humane purpose of the conference.

We shall not be able to determine the place which the Brussels conference will occupy in the history of international law until we know the decisions of the cabinets with regard to the project of a declaration which has been submitted to them. Even supposing that this project be generally approved in its present form, we shall still only be able to attribute to the labors of the conference a very modest importance—at least quite as modest as that of the Geneva convention.

Every one who knows the conditions of our time and the actual state of international relations must have expected that the Brussels conference would have no other result than that at which it has arrived. In several of our previous articles on "jurists, theorists, and the Brussels conference," we have already given our readers a sketch of the general movement of these times on the subject of law—a movement which aims at perfecting the present international laws and customs. The Brussels congress has no connection with this movement. Specialists have recognized at once that the forms of international law can only be codified in a very restricted measure, and specially in the sphere of ordinary peaceable relations, and then that the problem of international reform, having for its principal aim the prevention of rash wars and

the replacing of them by arbitration, ought not and cannot relate to a sphere where there is no room for any other argument or consideration than those of force and military science.

Among the questions which have made progress during these latter years in the science of international law, we find in the first rank that of the application of arbitration to the solution of numerous international conflicts, and that of the duties of neutral powers toward belligerents. All the other points disappear before these two chief questions, for they are but secondary or of little importance when compared with these. As to the character of military operations, their definition and limitation have only been seriously discussed up to the present by German publicists, who have proposed, among other things, that individuals not belonging to regular armies should be totally prevented from taking part in military operations, in order to avoid in future such difficulties as the Germans had to contend with during their last war with France in regard to the "*francs tireurs*." Similar plans, whatever may be the fine phrases which surrounded them and the arguments in favor of the security of the peaceable population by which they were accompanied, have failed to convince either publicists or impartial statesmen. Competent persons have perceived that it would be unjust to make too decided a distinction between the fate of armies and that of other inhabitants of the country, and that there is no room to talk of the interest of the peaceable population or of the welfare of some individuals where there are falling in defense of their country dozens, and even hundreds of thousands, of men who have been placed by blind chance in the ranks of permanent armies.

The bases which the Brussels conference could not give up are therefore doubly false: on the one hand, it had to codify on a subject which only admits of a private understanding, and not the institution of general formulas capable of being adopted without exception by all the powers; and, on the other, it was called to occupy itself with objects and questions the substantial nature of which escapes the definitions of law, and yet more so a general and uniform regulation.

[Inclosure 4 in No. 55.—Translation.]

THE BRUSSELS CONFERENCE.

[Abstract of an article in the St. Petersburg Gazette (of the Academy).]

We have already summed up for our readers, in a series of three articles, the whole of the labors of the Brussels conference, and have endeavored to demonstrate the immense influence which they ought to have on the course of military operations.

Considering that to Russia is due the honor of having taken the lead, and that the aim of the conference has been entirely reached, as the protocols state, it is impossible for us not to occupy ourselves seriously and impartially with this question. Most of the organs of our press have done the same, with the exception, however, of the Russian World, which has adopted the special course of opposing all the new forms of military organization.

The Russian World commences by saying that the Brussels conference could only contribute "to render more sensible, and could not lessen, the defects of the present military law;" and, in order to demonstrate this truth, it cites the project of a declaration as sanctioning "a practice adopted long since," and leaves it to be understood, besides, that the conference could only come to an agreement on questions which have never been the object of any doubt. In short, the paper in question finds that the check to the conference, a complete one according to its account, consists in the conference not having arrived at anything new.

After having given this opinion, the Russian World was bound, we think, to demonstrate the truth of it; but the reader, however, finds nothing of the kind in its article, unless he considers as a demonstration a general phrase like this, that the peaceable population ought not to enjoy inviolability, when dozens and even hundreds of thousands of their compatriots are perishing in defense of their country.

We have already had occasion to say that the aim of the conference was to specify the rules which are obligatory on combatants, and to lessen as much as possible in practice the calamities of war. Any one who is conversant with international law knows perfectly well that there exist several rules which are observed in time of war; that they are invoked by each combatant in turn; that they are due to the action of time; and that they have always given place to discussions without end, because the governments had never wished to speak decidedly on the question of rendering obligatory the laws of war.

It is true that the Russian World speaks, with its customary assurance, of incontestible rules which have never been brought into discussion. We should much like to know what are the principles of international law, or of the law of war, which

this journal has in view in speaking in this way, when it is precisely international law and international practice which show us that it is, on the contrary, only now, after the Brussels conference, that we can indicate several rules which can no longer be discussed in any manner or placed in doubt in time of war. The Russian World is thoroughly mistaken in believing that only some German publicists have insisted on the necessity of codifying the law of war. This idea has been sustained by French, American, Italian, and Russian authors, and several essays have even been undertaken in view of obtaining this end; and one among them, the statutes of military laws and customs, by a professor of the University of New York, was obligatory during the struggle between the Federal and Confederate States of North America. Also, when the Russian World affirms that the Brussels conference is in no way connected with the movement which is at present going on in the domain of international law, a movement destined to improve the existing international laws and customs, this observation is pardonable, considering the proved ignorance of this paper with regard to the actual direction of law, not only of international law, but also of the law of war.

It is true that the Russian World has certainly heard talk of an agitation in favor of the arrangement of international disputes by means of arbitration; it affirms, even, that it is in this sense that international reform should be accomplished. It would certainly render a great service to humanity if it succeeded in inducing states to have recourse to arbitration instead of settling questions by force of arms; but, so long as the Russian World does not reach this result, it only rests with scientific and practical men to seek to arrive at the same end by pointing out, for the present, measures by which the calamities inseparable from war can be reduced. With this point of view the Brussels conference had neither to invent new laws nor new customs, but to specify and to define the basis already existing and capable of being applied in time of war. Good sense ought, then, to dictate that the more we specify the limits of the rights and duties of the conqueror, that is to say, of the strongest, the better shall we attain the aim which tends to render less harsh the calamities and sufferings caused by war; but the Russian World is of another opinion, and it distinctly reproaches the declaration of Brussels with having treated too much of the rights of the conqueror.

With such a false idea of the question, it is perfectly comprehensible that this paper entirely approves the attitude of England with regard to the Brussels conference, and the protestation of small states against the desire to defend in an effective manner the interests and the security of the peaceable population. In reality, England, thanks to her insular position, is almost guaranteed against every invasion of an enemy. Only being able in case of continental war to play the part of conqueror, she could not have great interest in limiting in advance the operations of her army on the territory of any continental state.

If the British government has demanded that at the conference no mention should be made of questions relative to maritime war, this demand is explained by the conviction of the English people that it ought to rule the seas and dictate laws to all other nations in regard to them. The Russian project submitted to the Brussels conference made, besides, no allusion to maritime war. The Russian World is also mistaken in affirming that the energetic representations of the English cabinet have confined the power of the conference within very restricted bounds. If this paper had given itself the trouble to become acquainted with the protocols of the conference, it would have seen that not only has the Russian project been the subject of discussions in its entirety, and without any exception, but that there have even been added to it some articles relative to the wounded on neutral territory, articles proposed by Belgium. If the "fundamental bases" which figure at the head of the Russian project have not been discussed by the conference, that evidently arises from the fact that those bases were for the exclusive purpose of expressing the fundamental point of view of the entire project. In their quality of purely scientific bases, they naturally could not serve as topics of discussion in a conference composed of military men and diplomats, and where science had at the most two or three representatives.

The praise which the Russian World lavishes on the delegates from the small states at the conference is not the less strange. Their conduct is partially comprehensible.

The small states of Europe have much more chance of being conquered and of seeing their territory invaded by the enemy than of being able to invade themselves the territories of others. From this point of view their tendency to raise as many obstacles as possible to the power of the conqueror was perfectly legitimate. They would have been willing to regulate war so as to thoroughly tie the hands of the invader. But this point of view and this tendency of the small states are entirely inadmissible in practice. In fact, if the party which defends itself has unlimited rights, it is natural also that the invading party should not wish to consider itself restricted by anything whatever; it is impossible to declare that the defense is unlimited and that the invasion is limited by all kinds of laws and customs of war. But if the relations between the belligerents ought to remain entirely undefined, and if each one among them ought

to enjoy in time of war rights proportionate to its strength, it is evident that weak nations would alone have to suffer from it. It is therefore of all interest to these that the abuse of strength should be prevented as much as possible by a definition of the limits which such strength ought not to overstep, so as not to descend into barbarity and violence. In any case, we positively do not see at all why the point of view taken by the small states should be obligatory upon the large ones, and why the first should dictate laws to the second.

The great powers have all been by turns in the position of invaders and invaded, so the understanding has promptly established itself among them with regard to the rights and obligations of the army of occupation relative to the territory occupied by the enemy, and to its population.

As for the rest, the Russian World approves none the more of the decisions of the Brussels conference concerning the inviolability of the unarmed and peaceable population, and it demands that the fate of the army should not differ in too sensible a manner from the situation of other citizens of the country; but as the Russian World has recognized the necessity of defending the interests and the security of the populations which does not take a direct part in the military operations, it only remains for us to expect that this paper should let us know the means which it would like to see employed to guarantee the security of peaceable and undefended citizens, and that it should point out to us the limit where "the too sensible a difference" ends between these citizens and the army.

It remains for us to add one single observation. The Russian World wishes indeed to admit, in conclusion, that the Brussels conference has something of an importance, very modest, it is true, "at least quite as modest as that of the Geneva convention." First of all, if the conference really has a modest importance, the cause of it is in the present conditions of international relations, and their modesty is a rare quality in our time, especially when it concerns the discussion of questions of international law. Consequently it is not at all necessary to disdain it.

Lastly, the Geneva convention has already rendered, during ten years of existence, very considerable service in saving the lives of thousands of individuals.

[Inclosure 5 in No. 55.—Translation.]

THE BRUSSELS CONFERENCE.

[Abstract of an article in the "*Journal de St. Petersbourg.*"]

Without wishing to intervene in this discussion, we must call attention to the fact that the opinion given by the Russian World is identical with that expressed by the Times. The English journal equally reproaches the Brussels conference for only having formulated principles already acquired and universally recognized as axioms by international law, such as, for example, the interdiction against bombarding open towns, and against pillaging cities taken by assault. However, the acts committed in 1855 against the city of Kerch and against the boats and villages of poor, inoffensive Finland fishermen, are not very ancient history, and sufficiently attest that international law is very far from being so firmly established, and especially so universally observed as the Times maintains.

This paper condemns the great armies and supports the small states in their protestations against the military exactions of the period. England, however, perfectly organized the defense of her territory according to the very conditions laid down at Brussels when she believed herself to be threatened with an invasion in 1857. Besides, we do not see that the fervor of the English press for obtaining the reduction of military forces extends itself to demanding the diminution of fleets, to commence with that of Great Britain.

It seems to us, in any case, that if these points of view are explicable in the columns of an insular journal, they have reason to cause surprise in those of a Russian journal. Russia not having the advantage of being an island, and having, on the contrary, to provide security for an immense line of territorial frontiers, exposed to aggression from all parts.

[Inclosure 6 in No. 55.]

THE MILITARY POWERS AND THE USAGES OF WAR.

[From the "*Pall Mall Gazette*," Saturday, December 5, 1874.]

The announcement that Russia "contemplates the re-assembling of the International War Code Conference at Brussels," (an announcement which we made many days

ago, and which is now repeated,) will surprise no one. We were told, indeed, before the meeting of the former congress that the Russian project to be submitted to its consideration was "only a starting-point for ulterior deliberations," which Prince Gortschakoff trusted "would prepare the way for a general understanding." It is true that the debates at Brussels showed clearly enough what sort of a prospect there was of any "general understanding" being arrived at; and if this new movement on the part of Russia were taken as implying that she saw her way to a consummation which appeared so exceedingly remote a few months ago, our curiosity to know more would indeed be strongly excited. But we suspect that the understanding for which Russia has succeeded in preparing the way is not exactly a "general" one; and brief as is the telegram in which the news reaches us, it contains a significant sentence to confirm this suspicion. A draught treaty is, we are told, to be submitted to the conference; and it is added that "the Berlin and Vienna governments are more inclined to entertain the Russian proposals than some of the smaller states." This is more than probable. The "smaller states" showed at the former conference a remarkable indisposition to remodel the laws of warfare in accordance with the interests of the great military powers, and to deprive themselves prospectively of their only chance of equalizing a struggle between themselves and their stronger neighbors; and further reflection is likely to have confirmed rather than weakened their repugnance to a policy of national suicide. On the other hand, there is much probability in the announcement that the Berlin and Vienna governments are more favorably disposed to the Russian proposals, a fact, moreover, which Russia would be likely to ascertain before proceeding further in the matter. The character, then, of the "general understanding" which has been the result, if not the object, of Prince Gortschakoff's philanthropic efforts seems to be pretty fairly within the reach of prediction. It is a "general understanding" between the great military powers to reconstruct the laws of war in their own interests and, with or without their consent, against the interests of the weaker powers. That without such consent they can practically effect their object we shall, if we consider the matter a little more closely, see good reason to believe. Those who attach a paramount and overruling importance to the general consent of nations in any reconstruction of military law, and who fancy, on these grounds, that a combination of military powers would feel bound to acquiesce in the rejection of their proposals by the rest of the European community, seem to us to be misled, either by undue faith in the force of international opinion or by the illusory associations which have gathered round the term "international law." As to the latter, it is enough to remark that rules which avowedly rest upon no other basis than universal consent must be already severely shaken even in moral authority, by the mere withdrawal of a section of their adherents; while, if this withdrawal can be based upon any plausible pretext of morality, it is possible to evade in a great measure any conflict with international opinion, even while claiming a right to modify without general consent the existing obligations of international law, and it is not sufficiently remembered that Russia has provided herself with a very plausible pretext for the course she is apparently meditating.

We doubt, indeed, whether an extreme humanitarian could consistently oppose even the most exorbitant of the claims which were put forward in the Russian project. Undoubtedly if there were nothing of greater value to a state than the lives of its citizens, and if the mitigation of human suffering were the sole object to be considered in the settlement of the usages of war, then it would be impossible to resist the adoption of the bulk of the rules submitted by Prince Gortschakoff to the former conference. To restrict the area of combatancy as narrowly as possible, to make war as completely as possible an affair of professional fighting men—this is, unquestionably, to humanize war; and if it happens at the same time to give an overwhelming advantage in warfare to the nation which can muster the greatest number of professional fighting men, that Prince Gortschakoff may say is merely an accident, fortunate or unfortunate, as the case may be. If we, the military powers, in our disinterested exertions for the good of humanity, chance also to assure and consolidate our joint mastery over Europe, it only proves that virtue does not always go unrewarded, even in this world. Russia, indeed, to do her justice, has never shown any nervous anxiety to reconcile her policy with the *convenances* of public morality, and therefore might disdain any excuses of the kind; but to Germany, who has always had some traits of the sanctimonious Ironside about her military genius, and has always been desirous to show that her sword is of the Lord as well as of Gideon, the pretext of humanity and civilization will be invaluable.

But there is little need to speculate on the justifications adduced or adducible for a line of action which has probably been long since definitely resolved upon. The very futility of the late conference, considered as an attempt at a "general agreement," and the obvious certainty, from the outset, that it would be futile, sufficiently show that it was intended as a mere preliminary formality to the adoption of a policy independent of any such agreement. We cannot think, either, that Prince Gortschakoff could have believed in the possibility of reconstructing the laws of war in the joint

interest of such powers as Russia, Germany, and Austria, and of such powers as Belgium, Holland, and Switzerland, or that, not believing this himself, he could have imagined it possible to delude the weaker powers into believing it. The former hypothesis would do injustice to the prince's understanding, while the latter would credit him with too cynical a contempt for the understanding of others. There seems every reason to believe that the convention of the first conference was intended merely as a means of "fixing" Europe "with notice" of the various changes which certain powers think ought to be introduced in the laws of warfare, and that the projected conference (held after the various governments of Europe have had time for reflection on the matter) is to be made the occasion for a substantial restatement of these views as representing the rules upon which, on the occasion of future warfare, the reforming powers intend to act. They intend, in fact, to offer for the acceptance of the other European powers a code of rules for "humanizing warfare;" and if the latter are so blind to considerations of humanity as to refuse to accept it, they will at least have had fair warning what they may expect at the hands of more humane nations when next they come to be engaged in war with them. The humane rules will be carried out with rigorous humanity, with truly merciful severity. Civilians will be, in their own truest interest, summarily executed if they attempt to take up arms in defense of their country. The area of bloodshed "will be beneficently restricted, and every one will be shot who trespasses within it or too near its borders. Perhaps, in order to restrict it as closely and beneficently as possible, the doctrine of constructive occupation" will be adopted, so that "the presence of flying columns" in a country will entitle the invader to "hand over to justice" any "individuals belonging to the population of the country who shall rise in arms against him." Thus will the humanization of warfare be achieved, and, at the same time, the supremacy of the greater military powers be assured.

We need not trouble ourselves to speculate on the exact details of the new arrangements, or to consider whether the picture above sketched out will be found correct in every particular. The general spirit of the draught-treaty which Russia is about to propose can be predicted with sufficient certainty; and if it is to be accepted, as we are led to expect, by Germany and Austria, the European prospect is forbidding indeed. Optimists, unable to shut their eyes to the menacing aspect of affairs on the Continent, have been wont to console themselves and us by the reflection that the disturbing spectacle was only of an evanescent kind. If Germany maintains and increases her armaments, if France makes haste to restore hers, that, it has been said by some, is merely the expression of a temporary phase of international politics. Germany is jealously watchful over her new conquests, France dreaming idly of her revenge. Time will change all that; hostilities will subside and armaments be reduced. As to Russia, she is at present our very good friend, and too much occupied (so runs the talk of the day) "in the consolidation of her vast empire" to have time for schemes of conquest. Her preparations, however mysterious their object, mean mischief to no one. Such are the explanations which we have been wont to give and receive of the disquieting symptoms in the condition of Europe. But what is to become of these explanations, when we see the great military powers meditating an agreement which directly contemplates and assumes the maintenance of the *status quo* for an indefinite period of time, an agreement which absolutely shuts the door to any future possibility of disarmament, except by mutual consent, an agreement which could not be advantageous, or even prudent for any state to enter into, unless prepared to perpetuate, for its own part, that exhausting military competition by which the continental peoples are already so heavily burdened? It is not so long since one European power could reproach another with "turning Europe into a camp;" but we now perceive that the situation is established. The great military powers make their arrangements, it would seem, on the assumption that Europe is not only a camp now, but is to remain under arms for the next generation at least.

[Inclosure 7 in No. 55.—Translation.]

THE BRUSSELS CONFERENCE.

[Abstract of an article in the "*Journal de St. Petersbourg*" 30th November, (12th December.)]

The Saturday Review lately published an article on the "Brussels conference," and pronounced itself, like the Times and the Standard, in a very hostile sense. We will recapitulate its opinions.

The perseverance of the Russian government in pursuing the project which has partially failed at Brussels is much more significant and more suspicious than the first idea of the project. If it be true that a second conference on the same question is about to be convoked at St. Petersburg it must be supposed that the three imperial courts have some definite aim in view. The invitation given to the different governments to send to St. Petersburg their observations on the resolutions passed at Brus-

sels is apparently superfluous. The English government can at least reply that it has nothing more to say with regard to propositions to which it has refused its consent. The Saturday Review maintains that, besides belligerents, there is another class which is far from being unimportant, and which demands assistance and protection against the encroachments of diplomats, who consider the state of war as the normal condition of humanity. Neutrals, although they have been the favorite objects of American and German invectives, ought not to be treated as if they existed at the mercy of belligerents.

An inoffensive community cannot consent to part with all its rights, because its neighbors are engaged in a quarrel which does not at all concern it. If it continues its commercial relations with the two parties in dispute, one of the belligerents will probably gain more than the other by the commerce, but that in no way implies that trade with the two adversaries should be suspended. Having adopted, before all other nations, a systematic policy of peace, England is particularly interested in protecting the rights of neutrals, and in resisting every interference in their domain. The modern liberal party occasionally inclines toward an opposite error in exaggerating the obligations of neutrals and the rights of belligerents, but the grave experience acquired at Washington and Geneva has convinced prudent politicians of the risks involved in an alteration of international law. The reserve which Lord Derby has manifested with regard to the propositions of Russia is judicious and at the same time courageous, and an immediate renewal of this attempt cannot tend to lessen its suspicion.

This unanimity of the English press, not very unanimous in general, in condemning the work undertaken at Brussels is very easy to understand. It is explained, as we have already said, by the insular position of England. It creates for it interests which are distinct from those of the Continent. Protected by its shores and its fleet, England has little fear of being invaded. If it makes war, it can therefore only be for the purpose of invading others. It is consequently moderately interested in limiting, while regulating, the laws of war.

We should have nothing to complain of in this point of view if the English press only spoke of England. But the pretension of applying its judgments to continental states, which are not isolated, which have vast territorial frontiers exposed to invasion and numerous contacts, which can enter into hostilities with neighboring states, and which are bound to the community of interests of the Continent by a close and immediate bond, this pretension is inadmissible. The illogical reasoning can only be surpassed by the simplicity of the continental states who allow themselves to be seduced by these egotistical theories.

That granted, the Saturday Review contains from the continental point of view as many errors as words.

1. The project presented at Brussels has in no way failed. Its aim was to excite a general discussion on questions of common interest. This discussion has taken place—a serious, honest, and profound discussion. Among the questions many were settled. As to others diverse opinions have been registered, and additional instruction requested. This will be the object of the second reunion. But whatever may be its result, principles have been established, governments have morally bound themselves by their declarations, international law has acquired a solid and practical basis, and the legislation of some countries has already applied the rules which have been laid down. The work is begun; it will follow its onward course and receive from time its consecration and development.

2. We should be glad if the Saturday Review would define what it means by the "secret purposes" which are pursued by the three imperial courts. These three courts are continental; they are open to suffer from, or to make, war. Therefore, in trying to render it regular, they are very impartial, and we cannot perceive that they have any other interest than that of humanity.

3. The Brussels conference by no means disregarded the importance of the rights of neutrals; it devoted several sittings to the subject, and several articles resulted from its deliberations. But collateral with these rights there are also duties. England, who, by reason of her insular position, can easily remain neutral, and who, by the extension of her merchant and military marine, can derive great profit from this neutrality, would, no doubt, like to specify only the rights and to render them unlimited. But it is an exclusive point of view which cannot be admitted by the generalities of states. Moreover, maritime questions have been excluded by England herself from the programme of the Brussels conference. The melancholy way in which the Saturday Review expresses itself on the experiences of Washington and Geneva points out well enough the reason of it. This is a sufficient reply to the utopists who would have been glad to see the conference pronounce the principle of international arbitration. England, who has given an example of it, condemns it to-day, because she has gained nothing thereby. But since we must renounce the prevention of wars, what remains to be done but to regulate their operations? If it pleases the English press to isolate in this respect the interests of England from those of the Continent, it cannot complain of continental states for regulating their mutual interests apart from England.

No. 488.

Mr. Schuyler to Mr. Fish.

No. 69.]

LEGATION OF THE UNITED STATES,
St. Petersburg, January 13, 1875. (Received February 8.)

SIR: The recent events in Spain have caused some anxiety in Europe to learn what will be the future action of the Russian government.

Prince Gortschakoff remarked, a day or two since, to one of the ambassadors who consulted him on the subject, that the Emperor saw with pleasure the revulsion of monarchic feeling in Spain, and should the government of King Alphonso become established he would at once recognize him at the proper time, that is when he had received formal notification of his coming to the throne.

I have, &c.,

EUGENE SCHUYLER.

No. 489.

Mr. Schuyler to Mr. Fish.

No. 74.]

LEGATION OF THE UNITED STATES,
St. Petersburg, January 22, 1875. (Received February 17.)

SIR: The Podgaritza affair, in which last autumn several Montenegrins were massacred by the Turks, is causing here considerable excitement.

The Russian government * * * * is acting in co-operation with Germany and Austria-Hungary. Within a day or two the French ambassador has presented a declaration from his government that France will also act collectively with these three powers.

I inclose to you copies and translation of an article from the "Journal of St. Petersburg," * * * * by which you will see what a strong position the Russian government is taking up against Turkey. Special attention was called to this article by the fact that it appeared the day after a holiday in an extra bulletin, in which it is usual to print nothing but telegrams, and was subsequently published again in the ordinary issue.

On the occasion of the blessing of the waters, the Emperor did not give his hand to the Turkish ambassador, Kiamil Pasha, and said to him, "If the Porte does not become more reasonable the consequences will be very disastrous for it." (*Si la Porte ne devient pas plus raisonnable les conséquences pour elle seront funestes.*) * * * *

The grand vizier appears to be very obstinate in the matter, and a question has arisen which might better have been allowed to sleep. The Porte refuses to punish the Turks who took part in the massacre unless the Montenegrins, who killed some Turkish soldiers, are also tried. The prince of Montenegro agrees to this, and is willing to try them by a mixed commission, but only on Montenegrin soil. The Porte, however, insists on these men being sent for trial before Turkish judges.

Turkey does not recognize Montenegro as an independent state, although for a long time it has been independent in fact, and has been so recognized by Russia. The pretensions, therefore, to sovereignty over Montenegro, which are now put forward, may still more excite the warlike population of that country. Even at present, according to tele-

grams received here, the prince, who has acted throughout with moderation, has the greatest difficulty in restraining his subjects, and says that unless the matter is speedily settled he can no longer be responsible for them.

There seems to be no question here among diplomats that the Porte will yield in the end, but it is greatly to be feared that the matter may be protracted too long. The excursion of an armed band from Montenegro, or even any violent act of a single shepherd, who may have concealed a dagger, on the Turkish side of the border, would perhaps cause a general war in the east of Europe.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure in No. 74.—Translation.]

THE MONTENEGRO AFFAIR.

[From the "Journal of St. Petersburg."]

Yesterday we published in our last number in terms of the "Havas agency," a correspondence from Constantinople, January 11, the tenor of which is as follows:

"The commission appointed to institute an inquiry into the massacre of Podgoritzza has given its verdict. It has discovered that the murder of an eminent Mussulman was the origin of the massacre. Five Turks have been condemned to death, three of whom are not now in custody. Twenty others are condemned to penal servitude for terms varying from five to fifteen years. The Porte insists that before the execution of the sentence the Montenegrins, who in retaliation killed three Turkish soldiers, be brought to trial.

"The prince of Montenegro declares that it is impossible to permit these Montenegrins to be tried out of his territory. It is believed that the difficulty will be removed by the formation at Cettigne of a mixed commission."

This correspondence contains such serious inaccuracies that we believe ourselves in duty bound to re-establish the truth of the facts.

1. The eminent Mussulman, Goussouf Montchine, whose murder brought about the massacre of Podgoritzza, was engaged in commerce, but he had had an administrative employment at Medoun, a little town in the Turkish territory of Koutcha, where he had taken into his service Pero Koutch, a Turkish Christian, and a native of Medoun.

The murder was committed on the 7 (19) October, which was a market-day.

The assassin was this same Pero, who had for his late master some ill feeling, the cause of which has not been sufficiently stated. It was evidently a matter of personal revenge.

The servants of Goussouf Montchine threw themselves upon the murderer and killed him on the spot. Not content with this act of summary justice, under pretext that the criminal was a Christian, they stirred up the crowd and sought out all over the town the Montenegrins who had come there on commercial business. According to custom these unfortunate persons had been obliged to give up their arms on entering the town. It was therefore against disarmed individuals that this fanatical crowd launched itself. Eight Montenegrins were massacred in the town. The assassins then proceeded from there to the valley of Zeta, which leads to the Montenegro. They there killed seven more inhabitants, and wounded a woman who tried to protect her son against their blows.

It is to be observed, moreover, that the authorities as well as the Turkish troops, who were witnesses of these odious acts, did absolutely nothing to prevent them.

These are the facts established by the consular reports, and even by the inquiry of the Turkish commission of Scutari.

It is consequently false that the murder which provoked these massacres was committed by the Montenegrins as is stated by the Havas Agency. If a fresh proof were wanting that the assassin was a Turkish subject, it would be found in the fact that a part of the town of Medoun, his native place, has been pillaged by the exasperated Mussulman populace, and all the relations of the criminal have had to take to flight.

2. As to the Montenegrins accused of having, in retaliation, fired from their side upon the Turkish soldiers, three of whom were killed, the affirmation of the Havas Agency is equally at variance with the truth.

Here are the facts: Two Montenegrins, who both arrived on that day for the market,

hearing the cries and the discharge of fire-arms, sought shelter in a Turkish military station, the soldiers of which themselves invited them to enter, after having obliged them to lay down their arms.

However, the troop of Turkish assassins, having become aware of their presence, invaded the station and threw themselves upon these two disarmed victims. The Turkish soldiers stood by unmoved at this aggression. One of the Montenegrins was killed on the spot. The other, although wounded, succeeded in escaping, pursued by the murderous band which the soldiers had now joined. He was able to reach the frontier of the Piperi, which was near. These, seeing one of their number wounded and pursued, fired some shots in his defense, and succeeded in saving him. It was under these circumstances that two Turkish soldiers were attacked.

No. 490.

Mr. Schuyler to Mr. Fish.

No. 77.]

LEGATION OF THE UNITED STATES,

St. Petersburg, January 30, 1875. (Received February 20.)

SIR: Referring to Mr. Jewell's dispatch No. 45, of the 23d of February last, on disturbances in Poland among the Uniates, or United Greeks, I have the honor to inform you that quiet has been again in part restored by the conversion of some 50,000 persons to the orthodox Russian church. The unfortunate state of things consequent upon the acts which were spoken of in that dispatch continued during nearly the whole of last year. Many of the villages were occupied by troops, arrests were frequently made, and the peasants, finding themselves unable to cultivate their fields, fled, in many cases to the woods, where they lived in holes and dens. The excitement was only increased by a papal bull of the 23d of May, *omnem sollicitudinem*, by which the decrees of the consistory of Chelien, restoring the ancient rights of the church, were declared to be innovations, and all the changes which had been made in the course of the years, without the express protest of the popes, were sanctioned. Two expelled priests disguised as peasants, who brought numerous copies of this bull, translated into Polish, with other incendiary appeals, aided much in stirring up the people.

As the Emperor passed through Warsaw last summer on his return from England, the peasantry of these provinces endeavored to present to him a petition asking for the re-establishment of the church services to which they had been accustomed. The Emperor refused to receive the deputation or to grant their request. As no method of reconciliation seemed then possible, the administration of the United Greeks was some three months ago taken away from the minister of public instruction and given to the minister of the interior. The methods employed by this minister and by the adroit governor of the province of Siedlce, were much more skillful and effective, and in a short time addresses began to come in from the peasantry of the different parishes, asking that they might be received into the orthodox church and be of the same faith as the Emperor. Endeavors were made to give to these propositions every appearance of spontaneity, and it is probable that in the end the more sensible of the peasantry were not unwilling to make peace, as they knew very well they could no longer resist, being reduced to the utmost poverty by the exactions of the soldiery. Finally, formal votes were taken, and 45 parishes with about 50,000 inhabitants, presented petitions for union with the orthodox church. These were referred to the Emperor, who gave his consent, and on last

Sunday, the 24th, the act of re-union was celebrated with great solemnity in the parish church of Biela by the archbishop of Warsaw. This leaves some 200,000 individuals still belonging to the United Greek communion, the rite of which has, by the decrees of the consistory of Ohelin, been assimilated as far as possible to that of the Russian church.

I have, &c.,

EUGENE SCHUYLER.

No. 491.

Mr. Schuyler to Mr. Fish.

No. 81.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 4, 1875. (Received February 26.)

SIR: Referring to my dispatch No. 54, of July 17, 1870, on the appointment of a Russian bishop to America, I have the honor to inform you that by a resolution of the council of the empire, confirmed by the Emperor on the 2d December, 1874, and published to-day in the official journal, the Holy Directing Synod has fixed new estimates for the expenses of the orthodox Russian church in America. By this resolution, which came into force on the 1st (15th) January, 1875, the yearly sum of 417,680 rubles is set apart for the maintenance of the clergy and the expenses of the churches and clerical institutions, and the sum of 4,700 rubles, is allotted for temporary expenses to be diminished in proportion to the progress of the construction of the buildings for the church, clergy-house, and school in San Francisco.

I have, &c.,

EUGENE SCHUYLER.

No. 492.

Mr. Schuyler to Mr. Fish.

No. 82.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 5, 1875. (Received February 26.)

SIR: The Russian government has finally permitted the publication of the proceedings of the Brussels congress in the Russian papers. Up to this time they had only been published in a supplement to the French "*Journal de Saint Petersbourg*," of which only a limited number of copies were printed.

The publication of the dispatches in the "*Invalid*" is accompanied by an official communication, a translation of which I send to you, marked 1, on a slip cut from the London "*Times*," to which paper it was telegraphed. With the exception of an article in the "*Russian World*," translated in the accompanying paper, marked 2, which, as before, criticises the Brussels congress and approves the policy of England in the matter, the Russian press of late has done nothing more than reprint the dispatches and protocols. Public interest on the subject seems to some extent to have died out. I may remark that the *Invalid* is the official organ of

the minister of war, and that the Russian World is managed by a clique in opposition to him.

The government of Sweden has replied to the circular of Mr. de Westmann of September 26, (October 8,) that it accepts the final project of declaration as agreed upon at Brussels, and will be most happy to co-operate with the Russian cabinet in any further measures it may take, reserving to itself, however, the right of withholding its consent should the project be changed in any way. This adhesion, being from one of the small states, is said to have given great satisfaction to the imperial cabinet.

The Queen's messenger last week brought a long dispatch from Lord Derby, which, though in some measure anticipated, is of a more unpleasant nature. The English government refuses to take any further steps in the matter, and states that in case of war England and her allies will not consider themselves bound by any propositions which may be agreed upon by other powers, and which may in any way change the customs or usages of international law or the laws of war, as they at present exist. I am told that the dispatch states at great length the reasons that have led the English cabinet to this decision, one of which is that the Government of the United States has not taken part in the deliberations. The dispatch itself I have not yet had an opportunity of seeing.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure 1 in No. 82. — Translation from the London Times.]

THE BRUSSELS CONFERENCE.

[From the "Russian Invalid."]

A few words will suffice to vindicate the aims and objects of the conference against its adversaries. War is a last resource which no civilized state ought to have recourse to unless honor, safety, and existence are imperiled by unjustifiable demands on the part of an enemy. In such cases all minor considerations are silenced by the voice of patriotism. All European states have suffered the infliction of war, and there is no telling when and where this terrible trial may be renewed. Such being the case, the various governments, thanks to the steady progress of humane ideas and the growth of international relations, have long thought it their duty to obviate war if possible, or at any rate to confine its fearful consequences to the narrowest limits, if unfortunately hostilities could not be avoided. The rules and usages developed under the influence of these philanthropic principles are known as the laws of war, and have been much commented upon by jurists and philosophers. Despite, however, the undeniable merit of the professors of international law in mitigating the horrors of war, science alone can never hope to attain the end in view. Science has no power to enforce its verdicts, and what is worse, the opinions of its various representatives do not always agree with each other, or are based upon untenable premises, or in some instances unknown to those who ought to be guided by them. Hence the laws of war, as fixed by international usage, prove but a very feeble and obscure code whenever put to the test. All wars lead to mutual recriminations on the part of the belligerents, and though certain broad principles might be generally recognized, the mode of observing them was always a matter of doubt. The natural result of this sorry state of things was exasperation on both sides, and universal indulgence in barbarous reprisals. To remove these evils must be doubly desirable at this time of all others.

The material resources of all nations having been considerably developed, war is more intensely felt than formerly, and the means at the disposal of the governments being so very much greater than they were, any armed conflict in these modern days necessarily assumes a particularly cruel and destructive character. It is, therefore, to be devoutly wished that the laws of war be codified and rendered at once more intelligible and obligatory. To do this was the task of the Brussels conference. The primary object of this conference was not at all to lay down fresh regulations to be observed in the conduct of war, but only to select from the traditional and uncodified

body of international law those rules and usages adapted to the present times, and to convert them into generally-acknowledged and binding statutes, without closing the door to such ulterior reforms as are likely to be recommended by the progress of civilization, the conference mainly aimed at defining old but ambiguous rules, and giving them the dignity and force of treaty stipulations. If, in comparing the much-contested principles of international law with the exigencies of modern warfare, the members of the conference found it difficult to agree, this only proves how very ambiguous those principles are, and how very differently they may be interpreted. It is, therefore, high time to do away with a state of intellectual confusion which allows nations to go to war with one another without an exact knowledge of their mutual rights and obligations, and which necessarily leads to violence and arbitrary proceedings that might be easily avoided. We may thus hope to put a stop to the practice of belligerents of charging each other with breach of international law, and we may even aim at preventing those measures of repression which, though sometimes harsher than the provocation given, are yet justified by the stern necessities of war. The draught declaration made up by the Brussels conference begins by enumerating certain well-known and generally-recognized principles on which the meeting easily agreed. All that was required was to give these principles a definite and unmistakable expression, calculated to obviate the doubts occasionally thrown upon them in time of war. If sanctioned in their present form by the various governments, the rights and obligations of belligerents will have been firmly established at last. Rules which have supplied so much matter for dispute will be laid down in a tangible shape, and effectually enforced by officers initiated in the new code in the military schools and ordered to observe them like any of their other instructions. Other questions were not solved at the conference, but the various opinions to which they gave occasion were put down in the protocol. The draught declaration, therefore, does not presume to settle finally and definitively all the questions mooted, the text of that document only aiming at effecting a compromise between the various views enunciated at the conference. The governments have since been invited to study the materials submitted to their consideration and give utterance to any remarks they may think it expedient to offer. When these remarks shall have been received, it may be necessary to hold another conference for the final settlement of the agreement to be entered into. It is superfluous to add that the questions mooted at the conference are not new; they have arisen at all times in all wars. While it is impossible to improve them, it is equally impossible to say that international law has settled them satisfactorily and with sufficient clearness. To leave these questions unanswered is to leave the door open to the abuse of power and the violence of warlike passion. What the Brussels conference wished to effect was merely to prevent useless suffering and do away with the cruel reprisals occurring under the present *régime*, to define the laws and usages of war, to protect the defenders of their country, the wounded and the prisoners from unnecessary hardships, and to secure the unconditional recognition of the personal rights of every soldier in acquitting himself of his military duties. These were the only objects of the Brussels conference. The conference likewise thought it their duty to alleviate the sufferings of the civil population not taking an active part in the war. It is the interest of the weak which the Brussels development of international relations has not a little promoted by its labors.

[Inclosure 2 in No. 82.—Translation.]

[From the "Russian World."]

THE BRUSSELS CONGRESS.

It is beyond all doubt that the suspicion entertained of the sincerity and frankness of British diplomacy, which had some practical foundation under the *régime* of Lord Palmerston and his followers, is at the present moment extremely unjust and arbitrary; the firm, energetic, and at the same time excessively circumspect and restrictive mode of action of the cabinet of St. James does not justify the doubts with which public writers of the Continent have been accustomed to regard English policy.

The invariable sobriety of judgment, stern and inflexible, the fixity of tendency and aim, the business-like and practical foresight, and, lastly, the predominating lucidity of logic and common sense, all these qualities of the English are as conspicuous in the sphere of politics as in other provinces of human activity.

At the same time, it is just these valuable qualities of English policy that evoke bitter accusations and reproaches; cruel egotism is discerned in the resolute moderation of England, and apathy to the ideal of humanity in her sound sense and worldly wisdom. Many similar reproaches were lavished on England last year on her refusal

to join the Brussels conference. It is these threats that show most forcibly the complete falsity of the traditional views of the continental public with regard to the policy of England.

It is a well-known fact that perfect unanimity of opinion prevailed throughout the whole English press on the question of the Brussels conference. After a close study of all the arguments adduced in the English papers with reference to the opinions evoked at the conference and the principles involved, we think it impossible to discover in them anything but a true expression of a political logic and of ordinary practical tact. England could not have been influenced by any special motives in her resistance in view of her isolation from all the military interests of the Continent and of the exclusion from the programme of deliberations of the conference, of the only questions in which her interests were involved, namely, those of maritime rights.

The criticisms of the English press against the conference, which was summoned with the view of regulating the laws and customs of war, clearly show that with its characteristic practical sense, it at once perceived the weakness of some of the important points of the project, which the continental press discussed mostly only from an abstract humanitarian aspect, without paying attention to its expediency and to the possible practical consequences on the mutual relations of governments and peoples.

The question of offensive and defensive operations interests England much less than it does the continental powers; within European limits, she is the country least likely to play an aggressive or defensive part. The English consequently could have no positive motives for opposing the realization of any humanitarian projects within the region of international law; consequently the politicians of England were in a position to discuss the matter with calm impartiality, which, unfortunately, in this case, did not distinguish the continental press.

Every one who is acquainted with the present condition of international law cannot fail to see that the opinions expressed in England on the labors of the congress are in perfect unison with the views entertained by the greatest authorities on the subject of the international military problems of our time; while giving just credit to the humane initiative of the Russian cabinet, these views point to the impracticability of the philanthropic intentions of Russia by the means selected. While also indicating the inexpediency of the limitations of natural defense under the present conditions of peace and war, they recognize only one important and timely matter for discussion which has been brought prominently forward by recent international political movements, and in which English statesmen and public men have played such an active and honorable part. This point consists in the greatest possible extension of the principle of arbitration which has been already recognized by the majority of European parliaments, and among them by the Parliament of Great Britain.

The eloquent fact of the adoption of Mr. H. Richards's resolution in the House of Commons in 1873, with regard to international arbitration may, it would seem, serve as a sufficiently forcible reply to the reproaches and assertions of those who accuse England of callous, egotistical indifference with respect to the problems and successes of real progress in the sphere of international rights.

Had the question of international arbitration been comprised in the programme of the Brussels conference, the people of England and her government would of course have assumed a different attitude towards the congress and would have been the first to respond to the call of the great northern power. The fact alone of the recognition of the principle of arbitration by the two most practical nations in the world, England and America, serves to a certain extent as a guarantee of its practicability and of the possibility of its adoption.

No. 493.

Mr. Schuyler to Mr. Fish.

No. 83.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 9, 1875. (Received March 5.)

SIR: In my dispatch No. 82, on the subject of the Brussels congress, I spoke of a dispatch which had recently been received from Lord Derby.

I have now the honor to inclose to you, cut from the London Daily Telegraph, and marked 1, a printed copy of this dispatch, which bears date the 20th of January.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure 1 in No. 83.]

Lord Derby's dispatch on the Brussels congress.

[From the London "Daily Telegraph" of the 5th February, 1875.]

In a parliamentary return just issued, some further correspondence respecting the Brussels conference on the rules of military warfare is published. The most important dispatch is one addressed by Lord Derby to Lord Augustus Loftus, which runs as follows:

"FOREIGN OFFICE, *January 20, 1875.*

"MY LORD: I transmitted to your excellency, in my dispatch of the 25th of November, a copy of a circular dispatch respecting the Brussels conference, addressed, on the 26th of September last, by M. de Westmann to the Russian ambassador at this court, and communicated to me by his excellency on the 16th of November.

"This circular states it to be the view of the Russian government that the next step to be taken in the matter is, that the governments represented at the conference should inform the Russian government of the conclusions at which they may have arrived with regard to those articles of the project on the laws and usages of war which they may deem to be capable of immediate adoption, and should also furnish such observations and proposals as they may have to offer on those articles on which difference of opinion may exist. When the cabinet of St. Petersburg is in possession of these conclusions, observations, and proposals, it will decide on the expediency of drawing up an international declaration on the points upon which there may be a general agreement, or, as an alternative course, of submitting a new project to the powers, or of summoning a new conference of the delegates or representatives of the several governments, in order to bring their divergent opinions to a final agreement which might be formally recorded in a definitive manner.

"The circular adds, that the Russian government begs to be informed as soon as possible of the conclusions, observations, or proposals which the examination of the reports of the proceedings of the conference at Brussels may have suggested to the governments concerned. Her Majesty's government are not aware that any of the governments represented at that conference have yet complied with this request, by furnishing detailed observations, making specific proposals, or indicating particular articles of the project to which they are ready to give an immediate assent; and having regard to the importance of the subject, and the fact that the very existence of a nation may at some future time, in the hazard of war, depend upon the decisions now arrived at by its government, her Majesty's government trusts that the time which has been taken in deciding upon the answer which should be returned on the part of Great Britain will not appear to have been unreasonably protracted. Her Majesty's government have from the beginning appreciated the humane motives which led to the proposal of the original project by the Emperor of Russia, and have been anxious to meet His Imperial Majesty's desire that it should receive the fullest consideration. Your excellency will remember that the first invitation to a conference did not proceed from the Emperor, but from the president of the society for the improvement of the condition of prisoners of war, who solicited the European governments to send delegates to a conference to be opened at Paris on the 18th of May last. On the 11th of May, Her Majesty's government received from Count Brunnow a copy of a circular, dated the 17th of April, inclosing a project of an international code for determining the laws and usages of warfare, and proposing a conference at Brussels. In forwarding copies of these papers to Mr. Daria, on the 14th, I stated to him that I had told Count Brunnow verbally that as long as the project in question was only put forward by a private society I had not thought it a matter in which Her Majesty's government ought to take part, but that, the Russian government having taken it up, the question was thereby placed on a different footing, and it should receive the serious attention of Her Majesty's government. In my dispatch of the 4th of July I informed your excellency that Her Majesty's government had considered, with all the attention which so important a proposal deserved, the project of the Emperor of Russia for a conference to be held at Brussels to discuss the rules of military warfare. Her Majesty's government highly appreciated the humane motives by which his Imperial Majesty was actuated in making this proposal, and concurred in the earnest desire evinced by his Imperial Majesty to mitigate the severities of war. At the same time, Her Majesty's government were not convinced of the practical necessity for such a scheme for the guidance of military commanders in the field, and could not but fear that, unless the discussions were conducted in the most guarded manner, the examination of any such project in a conference at the present juncture might reopen causes of difference and lead to recriminations between some of the delegates appointed to take part in it. I added, that the willingness of Her Majesty's government to join with the government of the Emperor of Russia in any measure for the prevention of unnecessary suffering was shown by Great Britain having already, with that

object, acceded to the declarations relating to the Geneva cross and the use of explosive bullets; and Her Majesty's government would not, therefore, now be prepared to take exception to a discussion in a conference of delegates of such details of warlike operations in the field as it might be found useful and practicable to advise upon; but Her Majesty's government were firmly determined not to enter into any discussion of the rules of international law by which the relations of belligerents are guided, or to take any new obligations or engagements of any kind in regard to general principles.

It is unnecessary for me now to revert to the question of the exclusion from the discussions of the conference of matters relating to maritime operations or naval warfare, as that was happily settled by the acquiescence of all the powers in the assurance which Her Majesty's government felt it their duty to require in this respect. On the 25th of July, I addressed a circular to Her Majesty's representatives in the countries sending delegates to the conference, instructing them to acquaint the governments to which they were respectively accredited with the nomination of Major General Sir A. Horsford, K. C. B., as British delegate, and to state that it would be his duty to guard carefully against the introduction into the discussions of matters relating to naval warfare, and that he would also abstain from taking part in any discussion which might appear to him to bear upon general principles of international law not already universally recognized and accepted. With these reservations, Her Majesty's government had had no hesitation in authorizing a delegate on the part of Great Britain to attend the conference and to assist in its deliberations, with a view to any proposals of practical utility for alleviating the horrors of war. He was not, however, to be furnished with plenipotentiary powers, as Her Majesty's government regarded the conference as assembled for the purpose of deliberation, and were not prepared to give their assent to a scheme for the regulation of military operations without first examining it in all its bearings. Her Majesty's government, accordingly, reserved to themselves full liberty of action as to the manner in which they would deal with any proposals which might be made in the conference. The delegates met on the 27th of July, the United States not being represented, and some delegates not having yet arrived, and Baron Jomini, the Russian delegate, having been chosen president, read the instructions which he had received from his government, explaining the views of the Emperor as to the objects of the conference.

These instructions contained the following passage, to which the result of the conference has now given peculiar significance:

“La liberté d'action des gouvernements au point de vue militaire, et le droit des états de pourvoir à leur propre défense, ne saurait donc être soumis à des restrictions fictives, que d'ailleurs la pression des faits rendrait stériles. Il nous semble qu'aucune illusion ne saurait prévaloir dans la pratique contre cette inflexible nécessité.

The instructions also stated:

“Quant à l'issue finale, elle dépend de la discussion et de l'accord qui viendrait à s'établir car la pensée de l'empereur est avant tout une pensée d'entente générale.”

With the view, apparently, of promoting this general agreement, the conference resolved, on the proposal of the president, only to insert in the protocols the points on which the conference was agreed, and not to record those on which there was a difference of opinion. In order to prevent it being assumed that, because he did not take part in certain debates, he thereby gave a tacit assent to the decisions arrived at by his colleagues, the British delegate, at the meeting of the 31st July, very properly called attention to that part of his instructions wherein he was directed to abstain from taking part in any discussion on points extending to general principles of international law not already universally recognized and accepted. In recording this in the protocol, Baron Jomini remarked: *“Que tout le monde est d'accord à cet égard, la conférence n'ayant d'autre but que de consacrer des règles universellement admises.”*

It, however, soon appeared, when the more important articles of the project came to be examined and discussed, that the attitude of reserve which Her Majesty's government had held toward it and the caution of the British delegate were fully justified. Instead of mere rules for the guidance of military commanders, based upon usage, upon which a general understanding could be shown to be desirable in the interests of humanity, the articles of the project were seen to contain, or to imply, numerous innovations, for which no practical necessity was proved to exist, and the result of which, if adopted, would have been greatly to the advantage of the powers having large armies constantly prepared for war and systems of universal compulsory military service. Her Majesty's government might, in accordance with their previously announced determination, have instructed the British delegate to protest formally against any attempt on the part of the conference to lay down new rules of international law between belligerents; but they preferred to leave the discussions to take their course, being unwilling to throw impediments in the way of a thorough inquiry into the project, and thus prevent the Emperor of Russia's wishes in regard to

the conference from being adequately carried out. The rule that only unanimity of opinions should be recorded was, nevertheless, soon broken through by the protest and reservations of other delegates, and, at the meeting of the 14th of August, Baron Jomini was forced to abandon it. Her Majesty's government do not feel themselves called upon to enter into a minute review of the proceedings of the conference, and they will accordingly confine themselves to touching on some of the more striking differences of opinion to which the discussions gave expression. The first section of the first chapter occasioned an argument as to the meaning of "occupation" in the first article of the project, which provided that—"1. The occupation by the enemy of the part of the territory of a state with which he is at war suspends, *ipso facto*, the authority of the legal power of the latter, and substitutes in its place the military authority of the occupying state." The German view, as described by Sir A. Horsford, was that occupation is not altogether of the same character as a blockade, which is effective only when it is practically carried out. It does not always manifest itself by visible signs. If occupation is said to exist only where the military power is visible, insurrections are provoked, and the inhabitants suffer in consequence. A town left without troops must still be considered occupied, and any rising would be severely punished. Generally speaking, the occupying power is established as soon as the population is disarmed, or even when the country is traversed by flying columns. Baron Jomini said that the discussion turned upon the word "territory." This was a general expression, which must be interpreted liberally, (interpréter largement;) a province could not be occupied at every point; that was impossible. The other view was "that greater power must not be accorded to the invader than he actually possesses. Occupation is strictly analogous to blockade, and can only be exercised where it is effective. The occupier must always be in sufficient strength to repress an outbreak. He proves his occupation by this act. An army establishes its occupation when its positions and lines of communication are secured by other corps. If a territory frees itself from the exercise of this authority it ceases to be occupied. Occupation cannot be presumptive." (Sir A. Horsford's summary of protocol 10 of committee.)

The discussion terminated in the adoption of modified articles, in which an effort was made to reconcile the conflicting views by the use of carefully balanced expressions. Her Majesty's government fear that the inhabitants of the invaded territory would find in such colorless phrases very inadequate protection from the liberal interpretation of the necessities and possibilities of warfare by a victorious enemy; while the existence of rules, the meaning of which is not distinct and indisputable, could not fail, should they ever be actually promulgated, to give rise to angry controversies which would intensify, rather than mitigate, the horrors of war. The second chapter, relating to combatants and non-combatants, showed an equal difference of opinion, eventually smoothed over in a similar manner. The Swiss delegate, in his observations on the article requiring the use of a distinctive badge recognizable at a distance, remarked that a country might rise *en masse*, as Switzerland had formerly done, to defend itself, without organization, and under no command. The patriotic feeling which led to such a rising could not be kept down, and although these patriots, if defeated, might not be treated as peaceful citizens, it could not be admitted in advance that they were not belligerents. Sir A. Horsford also reported that, during the general discussion on the subject of this chapter, the Netherlands delegate remarked that if the plan laid down by the German delegate was to be sanctioned by the adoption of those articles which related to belligerents, as drawn up in the project, it would either have the effect of diminishing the defensive power of the Netherlands, or would render universal and obligatory service necessary, a system to which public opinion in the Netherlands was still opposed. He therefore reserved more than ever the opinion of his government. The Belgian delegate also made a declaration of reservation. Upon the consideration of section 2, chapter 1, "Of the rights of belligerents with reference to private individuals," and, "Of the military power with respect to private individuals," the discussion was resumed, and the rights of national defense again warmly urged by the Netherlands, Belgian, and Swiss delegates. In Baron Lansberge's opinion no country could possibly admit that, if a population of a *de facto* occupied district should rise in arms against the established authority of the invader, they should be subject to the laws of war in force in the occupying army. He admitted that, in time of war, the occupier might occasionally be forced to treat with severity a population who might rise, and that, from its weakness, the population might be forced to submit; but he repudiated the idea of any government contemplating the delivering over in advance to the justice of the enemy those men who, from patriotic motives, and at their own risk, might expose themselves to all the dangers consequent upon a rising. Baron Lambertmont added that if citizens were to be sacrificed for having attempted to defend their country at the peril of their lives, they need not find inscribed on the post at the foot of which they are about to be shot, the article of a treaty signed by their own government, which had in advance condemned them to death. Colonel Hammer, the Swiss delegate, who had previously pointed out that articles 4, 5, and 9, (respecting conditions to be fulfilled by armed forces,) were the cardinal points of the

whole project, openly declared that two questions diametrically opposed to each other were before the committee: the maxims and interests, on the one hand, of great armies in an enemy's country, which imperatively demand security for their communications, and for their *rayon* of occupation; and, on the other hand, the principles of war and the interests of the invaded, which cannot admit that a population should be handed over as criminals to justice, for having taken up arms against the enemy. A reconciliation of these conflicting interests was, in his opinion, impossible, in the case of a *levée en masse* in an occupied country. In the face of the opposite opinions expressed on the articles under discussion, only a provisional modification of them was accepted by the meeting, omitting those upon which the greatest disagreement had been shown.

The conference was unable to arrive even at a provisional modification of chapter 2, "Of requisitions and contributions," and, after a variety of views had been expressed, of the most opposite character, the course was adopted of accepting a certain reading in the project, and entering the dissentient opinions in the protocol. The articles on section 4, "On reprisals," did not attain to this stage. Sir A. Horsford reported that the general feeling seemed to be that occasions on which reprisals of a severe character had been executed were of far too recent a date to allow the practice to be discussed calmly, and the articles were withdrawn. Her Majesty's government understand that this was the only subject brought before the conference which appeared likely to give rise to warmth of feeling, from its relation with recent events, and they have been glad to find that their apprehensions in this respect have proved unfounded, owing to the tact and moderation of the president and of the several delegates, and, in some measure as they are willing to believe, from the presence of an impartial and friendly counselor in Sir A. Horsford. At the same time, Her Majesty's government cannot conceal from themselves that, in passing over these articles in silence, the delegates really evaded one of the principal difficulties inherent in any scheme for the preparation of the rules of war to be observed by belligerents, namely, the question how those rules are to be enforced. Rules of international law in which the interests of neutrals and belligerents are concerned, can be enforced in the last resort by recourse to war. In the case, however, of countries already engaged in hostilities, there will be no means, except by reprisals, for either belligerent to enforce upon the other the observance of any set rules.

It is true that, on the outbreak of war, it would be almost certain that one or other belligerent would appeal to neutral nations against some real or supposed infraction of these rules by his opponent. It can, however, scarcely be seriously contemplated that neutral countries should intervene to enforce their observance, and, unless their interference were attended by the exercise of compulsion, in which case the circle of hostilities would soon be indefinitely enlarged, it cannot be supposed that the contending nations would respect it. The remaining articles of the project, in the words of Baron Jomini, "*ont été l'objet de rédactions transactionnelles, destinées à concilier toutes les nuances d'opinion.*" They relate to the "Means of injuring the enemy," "Sieges and bombardments," "Spies," "Prisoners of war," "Bearers of flags of truce," "Capitulations," "Sick and wounded," "Armistices," "Belligerents interned, and wounded treated in neutral territory." Of these, the articles on sick and wounded, originally seven in number, have been reduced to one, relegating the whole matter to the operation of the Geneva convention. The articles relating to capitulations and armistices are also merely formal. Those concerning spies and flags of truce only profess to record existing military practice, as do the articles respecting sieges and bombardments, though Her Majesty's government are not confident of the correctness of this description. The twelve articles with regard to prisoners of war appear to Her Majesty's government to be important only in so far as they show the manner in which the original objects of the project, and the humane intentions of the Emperor of Russia have become obscured in the attempt to devise general rules of warfare. The articles themselves may possibly serve some useful purpose in recording the view taken by the delegates at Brussels, of some details of the usual treatment of the prisoners of war. It was not, however, proved that any real necessity existed for regulating these details, still less that an international agreement on the subject was required. From the spirit of compromise adopted in framing the articles to which I have referred, as mentioned by Baron Jomini, it is more than probable that a close scrutiny would show that many of the articles admit, or invite, differences of interpretation, and Her Majesty's government need hardly point out how serious would be the consequences should this be found to be the case in respect to the articles on "Belligerents interned, and of wounded treated in neutral territory."

It will have been seen from the foregoing observations that Her Majesty's government regard the result of the Brussels conference to have been to demonstrate that there is no possibility of an agreement upon the really important articles of the Russian project; that the interests of the invader and the invaded are irreconcilable, and that even if certain rules of warfare could be framed in terms which would meet with acquiescence, they would prove to exercise little more than that fictitious restraint

depreciated by the Russian government at the opening of the conference. Under these circumstances Her Majesty's government cannot consent to pursue the matter or to take part in any further negotiations or conferences upon it. In my dispatch of the 23th September I stated that Her Majesty's government desired it to be distinctly understood that by authorizing the signature of the final protocol, they did not accept the rules thereto annexed. A careful consideration of the whole matter has convinced them that it is their duty firmly to repudiate, on behalf of Great Britain and her allies in any future war, any project for altering the principles of international law upon which this country has hitherto acted, and above all to refuse to be a party to any agreement the effect of which would be to facilitate aggressive wars and to paralyze the patriotic resistance of an invaded people.

Your excellency will read this dispatch to Prince Gortchakow, and furnish him with a copy of it.

I am, &c.,

DERBY.

No. 494.

Mr. Schuyler to Mr. Fish.

No. 85.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 18, 1875. (Received March 12.)

SIR: Referring to my dispatch No. 74, of the 22nd of January last, I have the honor to inform you of the close of the difficulty between Montenegro and Turkey.

On the strong representations of the ambassadors of Russia, Austria-Hungary, Germany, and France, the Porte finally consented to an arrangement whereby the Montenegrins accused of being implicated in the affair should be tried by a mixed commission, on Montenegrin soil, but which should cross the frontier into Turkey for the purpose of taking the evidence of the Turkish witnesses.

This result being communicated to the Prince of Montenegro, he replied that he could not accept it; that he regretted that his affairs should have caused so much trouble to the great powers; that he withdrew any claims for satisfaction or indemnity which he might have had, and that he would himself punish any of his subjects who had offended against the laws of their country, and leave the Porte to act as it thought best. Such a decision was taken by the prince after the visit to Montenegro of the Russian consul at Scutari, and was doubtless inspired by the Russian cabinet.

The Prince of Montenegro has been adroit enough to make use of this incident for declaring his independence. When, in the summer of 1871, he visited St. Petersburg, he was received by the Emperor not only as an independent sovereign, but also as one in intimate relations to the imperial family. Subsequently to this, on his passage through Berlin and Vienna, he was received by the respective sovereigns immediately as an independent ruler, without the intermediation of the Turkish ambassadors. Since that time Montenegro has been placed in the Almanach de Gotha under a separate head, as an independent country. In his declarations during this occurrence the Prince of Montenegro has assumed and asserted his independence, which was tacitly admitted by the four great powers, if not by Turkey. England did not at the time protest against it, although it is said that the English cabinet dislikes the turn which matters have taken. Henceforth the independence of Montenegro must be considered as established *de jure* as well as *de facto*.

The Russian foreign office cannot conceal its satisfaction at the success of its policy, and the Russian newspapers state that the settlement was due entirely to the good offices of Russia, and adduce this as another proof of her peaceful designs in the East.

I have, &c.,

EUGENE SCHUYLER.

No. 495.

Mr. Schuyler to Mr. Fish.

No. 88.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 22, 1875. (Received March 11.)

SIR: Referring to my previous dispatches on the Brussels conference, I have the honor to inclose to you herewith two copies of the dispatch of Prince Gortschakoff to Count Schonvalof, in reply to the note of the English cabinet, and a translation thereof.

The refusal of Great Britain to participate in any further proceedings on this subject is naturally very annoying to the Emperor, and it is fully believed here that it has been productive of considerable coldness between Russia and England. This feeling I cannot help considering is greatly exaggerated, as officially there has been nothing to show that any such coldness exists.

The "*Nord*," of Brussels, formerly an official organ of Russia, and now more or less inspired by the Russian foreign office, contained a few days ago a very bitter article against England, accusing her among other things of bad faith in having by the promise of joining the Brussels conference succeeded in getting the question of the usages of maritime war removed from consideration, and now, having accomplished that, in declining to have anything more to do with the matter.

The "*Moscow Gazette*" endeavors to place the refusal of England on other grounds, as, for instance, discontent with the position of affairs in Central Asia, and pique on finding the Montenegrin dispute and the question of the rights of the principalities to make commercial treaties independently of the consent of the Porte decided without her participation.

The "*Russian World*," while praising the tone adopted by England, finds fault with the violent article in the "*Nord*," and calls upon the "*Journal de St. Petersbourg*" as the official organ of the foreign office to disavow it. The journal, however, has not mentioned the subject since the receipt of the English dispatch.

There seems still to be a lingering hope that perhaps in the end England may consent to join the conference, and it is confidently expected that the small powers will not follow the lead of England. I have noticed, however, that some of the official defenders of the scheme are those who have least confidence in its success, and my information leads me to believe that the assent of the minor powers, and indeed of some of the great ones, with the exception of Germany, is by no means gained. In fact it is now said that owing to the refusal of England, the Spanish government, which had assented to only those parts of the project that had been unanimously agreed upon, will reconsider its decision.

I have, &c.,

EUGENE SCHUYLER.

[Inclsure in No. 88.—Translation.]

The Chancellor of the Empire to Count Schonwalof.

JANUARY 24, (February 5,) 1875.

The English ambassador, by order of his government, has communicated to me a dispatch from Lord Derby, dated the 20th of January, of which I send you herewith a copy for your information.

I have made it my duty to bring this document to the knowledge of His Majesty the Emperor.

Our August Master is sensible of the manner in which Lord Derby appreciates the thought of humanity which has inspired him in calling the European governments to a general understanding for the purpose of inquiring into the means of moderating as much as possible the rigors of war.

His Imperial Majesty regrets so much the more the resolution of Her Britannic Majesty's government not to take part in this deliberation. It would have been desirable that the voice of a great nation, such as England, should be heard in an investigation of which the object appeared to meet with its sympathies.

The government of Her Britannic Majesty is alone judge of the motives which dictate to it this absence. It is not our part to enter into a discussion on this subject. However, as the dispatch of Lord Derby contains an opinion on the points of view and acts of the Brussels conference, I have thought it worth while to make some observations on the manner in which we consider them.

They are set forth in the accompanying communication, of which your excellency is authorized to give a copy to the principal secretary of state of Her Britannic Majesty at the same time as one of the present dispatch.

Receive, &c.

Observations by Prince Gortschakoff, on the dispatch of Lord Derby to Lord Augustus Loftus dated from the foreign office the 20th of January, 1875.

First. The project of the Russian government on the laws and customs of war is by no means directed to the introduction of new principles of international law.

There does not exist, properly speaking, any positive international law. There is a *law of nations (droit des gens)* more or less tacitly admitted, and of which some parts have acquired the force of law by formal treaties.

In the last century the laws of maritime neutrality did not exist legally until they were proclaimed and made the object of treaties with other governments by the Empress Catharine II. England disputed them for a long time as derogatory to the existing laws and customs. To-day they are generally admitted, but they have not the force of obligatory law except by treaties which sanction them and for the governments who sign such treaties.

The law of nations has not been formed in any other way. Jurists have laid down on their own authority maxims based on experience, morality and public interest. They have gradually passed into habit and practice. Some of them, specified, defined, and rendered obligatory by treaties, have become positive laws.

The project of the Russian government has had no other aim than that of operating thus with regard to the existing laws and customs of war; that is to say, to inquire by common consent into that which could be specified, defined, completed, and receive an obligatory sanction by an exchange of declarations between the cabinets.

Second. The most part of the objections made by the English dispatch to the Brussels project bears in the same degree on the entire law of nations.

It is no doubt difficult to formulate clear and precise rules which should define the character and scope of acts of war similar to that of occupation, and to trace the duties and rights of the occupier and the occupied. These difficulties are inherent in the very nature of things. The law of nations offers no remedy for them, and the English dispatch settles them none the more, in declaring the absolute incompatibility of the interests of the invader with those of the invaded. This dogma would be the absolute proclamation of the rights of strength without bounds. The law of nations admits the necessities of war, reason demonstrates them, and experience confirms them. Strength will always be able to take advantage of them.

By leaving things in this indefinite state, the relations between the occupier and the occupied, between the military power and private persons, would not be better for it; it would not give rise to less acts of violence and of reprisal, to less complaints, recriminations, reciprocal appeals to international law, and contradictory interpretations of its vague principles.

However, those are very grievous aggravations of the rigors of war. The more dif-

fulcult this is to remedy, the more incumbent is this necessity on governments and peoples in proportion as the progress of civilization increases the means of war and multiplies its calamities.

If the competent delegates of all the governments, deliberating in a spirit of reciprocal benevolence, have not arrived at an agreement as to the practical manner in which these questions ought to be considered, how much more difficult will be the respective position of armies and populations in the midst of the passions of the struggle, in the face of an uncertainty which opens the door to every excess and suffering.

It is precisely because the law of nations is wanting in exactitude and clearness, that the Brussels project attempts to make up, as far as possible, for these uncertainties, these gaps and contradictions.

It is because it is in need of sanction, that the conference has desired to give to it the only sanction possible in practice—that resulting from reciprocal declarations exchanged between the governments, and made the basis of the instruction of their armies.

However imperfect may still be the proposed rules, the governments who have discussed them and will have accepted them, will have so acted in a spirit of humanity. There is therefore reason to think that they would interpret them in the same spirit. The advance of civilization and the bond of interest cannot but augment this feeling of inter-dependency, (solidarite,) which would tend to bring about some mitigation of the sufferings arising from the scourge of war.

The Russian government has thought, and still thinks, that in proportion as this result is reached, a real service will have been rendered to humanity.

Third. The English dispatch supports exclusively the points of view enunciated for the benefit of weak states.

However, war may not always take place between a great and a small state. It may be made between powers presumably of equal strength. These are also the most terrible, and it is impossible not to take this contingency into consideration.

Among the states open to the carrying on of war, there are some who, by their position, have only to look out for aggressive wars, and others have in view only defensive ones. The first would like to place no limit to the use of strength; the second would wish to recognize in it no right.

But there are others who are liable to run the same risks, according to the fortune of battles. These are the best judges of the question, and a certain solidarity has been manifested among them. They know, in fact, that the conqueror of to-day may become the conquered of to-morrow. They are therefore interested in considering with impartiality the rights and duties of the weaker as well as those of the stronger; and if the principles which they believe to be able to admit have for their object to render war less cruel by regulating its operations, it seems beyond doubt that the weaker states will profit by it in an equal degree.

The theory according to which, while admitting that the stronger may, in certain cases, be obliged to use rigor, and that the weaker may be obliged to submit thereto, it would still be preferred to yield to strength rather than to acknowledge it, would finally end in establishing the absolute rights of strength, which would be the only measure of rigor to be used, and of obligatory submission. One cannot but be struck at seeing this assertion made by those who give themselves out as defenders of the weak.

It is evident that in order to sketch out the limits which strength ought not to pass, it is necessary to specify those within which it is permitted to operate.

In claiming for itself unrestricted rights, the weakest state would authorize the strongest to accept no other limits to its rights than those necessitated by its own convenience or its own security. This would be to return to savage warfare, and it is not perceived that the weak states in particular would gain anything by it.

Fourth. The Russian project has by no means in view the development of the military power of the great states and the procurement of advantages for those who possess great armies and compulsory military service.

These powers exist. The advantages which they derive from their military organization also exist. It is not the conference which has created them.

This state of things may be regretted; but from the moment of its existence the only means which have appeared able to remedy it are: 1st, to prevent conflicts between these great military masses; and, 2d, when the conflicts break out, to restrain the effects of their destructive power.

The first of these means depends upon the political action of governments, upon their wisdom and moderation, supported on the solidarity of general interests, which, in our time, are attached to the maintenance of peace.

The second has been the object of the Brussels meeting.

The question put forward by the Russian government has been to know if, instead of leaving these great military forces without rule or restraint to the passions of struggles which would assume a character of extermination, it would not be in the general interest to agree, by mutual consent, on certain rules derived from existing

laws and customs, and designed to diminish, as far as possible, the extent and consequences of such struggles; to prevent the stronger as well as the weaker from carrying to an extreme the exercise of the rights of war; to restrain the violence which leads to reprisals, and to reconcile the necessities of war with the interests of humanity. However difficult may be this problem, the Russian government has thought, and still thinks, that it belongs to the duty and interest of all states to seek in common its solution.

Fifth. It is to be remarked that the project of the Brussels conference is sometimes reproached for developing "*militarism*" and sometimes for paralyzing national defense.

It is, however, evident that a state which develops its military organization creates elements for defense as well as for attack.

Most of the European states have for a long time occupied themselves with the means of preparing defensive forces by the side of their active armies. Some have already provided for this by legislative measures, which have brought their national defense to the highest degree of effective power. The Brussels conference has, therefore, gone no further than to prove and regulate a fact which is in the pressure of circumstances and the necessities of the period. Far from restraining national defense, it tends, on the contrary, to strengthen it; on the one hand, in rendering it more effectual; on the other, in removing it from the consequences of the abuse of strength, and in assuring for it a regular treatment on the part of the enemy. The proposed conditions of this end have been reduced to their simplest expression.

Their application is easy and not very burdensome. Their aim is especially to distinguish the citizen who defends his country from the marauder, the robber, and the assassin; to assure to the first the respect to which he has a right, and to spare him the severity which the laws and customs of war justify with respect to the second.

These conditions by no means involve compulsory military service. National defense can perfectly well remain optional, while at the same time it receives some organization. It has even been freed from this condition of organization in the case of a spontaneous rising "*en masse*" on the approach of an enemy.

The liberty of rising against its risks and perils always remains reserved to an energetic population, and these risks and perils are no others than those admitted by the present laws and customs. What the Brussels project adds thereto is the obligation of the invader of treating regularly the national defense when it is furnished with a sufficient organization to guarantee that it will conform to the laws and customs of war.

Sixth. As to the mode adopted in the labors of the conference, the Russian delegates proposed to draw up only the points of agreement, in order to facilitate an understanding. When the differences of opinion were expressed on the more essential questions, they proposed to set out all the opinions in the protocols, in order that where there was no agreement there should be the knowledge which ought to precede every serious understanding.

They were the first to point to the inconvenience of compromises as to pure form in grave questions where only real compromises were those which would relate to the subject-matter.

However, as there were no other means of recording the result of the contradictory debates, it was agreed that, while resolving upon the compromises in the project, the separate opinions contained in the protocols would serve as commentaries to it.

This is the mode employed in all legislation, where, by the side of the code which lays down general rules, there is the interpretation of laws applied to particular cases.

Even though the conference should have no other conclusion for the moment, its labors will remain as a solemn investigation which states how war, its necessities and consequences, are actually considered by all civilized states. Its protocols will be consulted in case of war as testimony of great moral worth.

It is permitted to have the assurance that this work will not be unfruitful, and that, developed and sanctioned by experience, it will contribute to determine the laws of war in a sense profitable to civilization and to humanity. This is why it is to be regretted that the voice of England should not be heard in the conference.

Seventh. The special articles of the project which have terminated in an agreement by means of compromise, far from being confined to the sanction of practices generally admitted, gave rise to divergent opinions and to laborious discussions.

The very fact that the agreement could only be arrived at by means of compromise is sufficient proof of it. Nothing, on the contrary, demonstrates better how obscure is the law of nations, even in questions apparently the most simple and the least open to dispute.

Eighth. As to the chapter on reprisals, it was not the only one which was able to give rise to burning discussions. There is hardly a single question discussed which was not able to provoke irritating applications to the last wars. The Russian government had confidence in the knowledge and feelings of the governments to whom they had appealed, and this confidence has been perfectly justified by their delegates.

Much more is it to be presumed that the same would be the case in the event of a second meeting.

This chapter was not suppressed by this motive, but in consequence of the feeling which prompted in general several delegates to prefer the toleration of an unlimited evil rather than to restrict and lessen it by declaring it in detail for the purpose of regulation.

Reprisals will therefore remain in effect as one of the hardest necessities of war.

The law of nations recognizes them and experience confirms them. But they will be made without rules or limits. It remains to be shown what the conquerors as well as the conquered of the future will gain in this respect.

The English dispatch declares that, in suppressing this chapter, the conference has eluded one of the principal difficulties, that of defining how the observance of established rules is to be enforced.

It acknowledges that the only means is to make use of reprisals in case of violation.

That argument applies, for the same reasons, to the whole law of nations in its present state.

It is the best proof of its imperfection; and it is remarkable that, while, on the one hand, recognition is refused in the name of the law of nations to the principle of reprisals, on the other this principle is admitted as the only sanction of the rules of war.

This state of things is what the Brussels project has directly in view to remedy, in giving to the laws and customs of war the moral sanction resulting from reciprocal engagements.

If, in conformity with this project, the principles of the law of nations elucidated and completed, as far as possible, were placed under the guarantee of public declarations exchanged between the governments and brought in a binding way to the knowledge of their armies, it is permitted to believe that they would have restricted the number of cases where they are obliged to ask for single reprisals, the sanction which they have wanted until now.

Ninth. If, nevertheless, the English government declares in conclusion that they will hold by the principles of international law on which they have up till now regulated their acts, and that they will impose the same obligation on their allies, it would be desirable that they should complete the thought by declaring what are those principles. How do they and their allies interpret the doubtful points and fill up the gaps of international law principally with regard to the questions which have formed the object of the discussions at Brussels? How do they understand, according to international law, the reciprocal rights and duties of the invader and invaded; of the occupier and the occupied; of aggression and national defense, and the relations of the enemy's military power to private persons and property? What are, in short, the past acts of war by which one might judge how they intend to practice in the future?

The uncertainty which the law of nations fails to remove on all these capital questions, and which the English government refuses to help to explain, even by a simple common deliberation, has not prevented, and will probably not diminish, aggressive wars. It seems doubtful that it protects more efficaciously than the past the patriotic defense of invaded peoples against the rigors or the abuse of strength.

No. 496.

Mr. Schuyler to Mr. Fish.

No. 90.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 2, 1875. (Received March 24.)

SIR: In my dispatch No. 55, of the 14th of December last, on the subject of the Brussels conference, I spoke of what seemed to me the possibility of the three great military powers agreeing on some project, and then in some way forcing the remaining states of Europe to submit to it. It would seem from an article lately published in the "*Golos*," of an extract from which I have the honor to inclose to you a translation, marked 1, that this possibility may be realized. In this article it is pointed out that the three great powers may agree on some project on the laws and usages of war which shall be enforced with regard to each other, and that war only of the most barbarous character will be carried on against those powers who do not choose to consent to this.

The remarks of this article with regard to the refusal of England were so bitter that it was thought necessary to publish in the official journal a communication on the subject, a translation of which I inclose to you, marked 2. The few utterances of the Russian journals since that time have been marked by quite a different tone.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure 1 in No. 90.—Translation.]

ENGLAND'S REFUSAL TO ATTEND THE CONFERENCE OF THE THREE GREAT POWERS.

[From the "Golos," February 26, 1875.]

The "Golos" in a long article on the refusal of England to attend the conference at St. Petersburg, after explaining the origin of the conference in the horrors of the French and German war, and what has really been accomplished, goes on to say that even if the common consent of the nations became impossible and very few powers attended the new conference, the cause would by no means be lost. Besides the way chosen by Russia there exist two other methods, either of which would have some advantage for Russia. First, Russia can elaborate a code of military laws and usages binding on the Russian armies with the proviso that they be applied only in wars with those countries who have declared that in a war with Russia they will keep to similar rules. With any country that did this we would carry on a war on a humane basis, but any country that would not do this would be obliged to excuse us from keeping such rules, and would have to bear all the penalty itself. A refusal to accept our rules would mean that it was determined to carry on a barbarous war, in which case let preparation be made to meet a barbarous war with all its horrible consequences. This new method of introducing fresh principles into international relations would, however, be nothing novel in Europe. Italy has introduced into its commercial code the following article: "The seizure by ships of war of merchant-vessels of the enemy is abolished on the basis of mutuality with regard to those powers who have taken the same measure respecting the Italian commercial fleet." Introducing, therefore, a humane basis, Italy binds itself to apply it only to those powers who themselves apply it. Russia could do the same thing with the humanization of war by proclaiming that she allows it only on the basis of mutuality.

The second method is not new to Russia. The famous armed neutrality of the Empress Catharine II, directed against the maritime ravages of England, was introduced into the international law of Europe by means of the conclusions of separate conventions between Russia and the European powers. When the number of these conventions increased and the principles of armed neutrality received active force, England, who at the beginning had rudely refused to comply with the proposition of Russia, was obliged *notens volens* to submit to the new system of maritime law which had received international sanction. So also in the present case Russia could, by elaborating a project of military laws and usages, communicate it to all the other powers with the question whether they do not wish to conclude with Russia a convention for carrying out these laws and usages in their future wars. In this respect we should only need the signature of two or three of the military powers to this convention, since there exists a close friendly alliance between Austria, Germany, and Russia, and since the Brussels conference has shown that these three chief military powers are agreed with each other on all the existing questions of international law. In all probability, therefore, the conclusion of a similar convention with them would not meet with the slightest opposition. In what condition would then be placed those states which did not join in this convention? In case of a war between them and one of the states bound by the convention, the most barbarous methods of war would be allowed against them.

Whom, it may be asked, has England injured by her refusal? Materially she could not injure herself, because for some time, at least, she is protected by the sea from an attack of enemies. To her allies, if indeed she could ever find any in a given case, she will only show a very bad service, since in case of war they will be made the victims of the barbarous method of carrying it on. But morally, in the respect of all enlightened peoples, England, by her thoughtless refusal, has lost very much.

Our chancellor, at the end of the supplement to his dispatch of the 24th of January, (5th February), ironically asks Lord Derby to explain what are those principles of international law in accordance with which England has up to this time constantly regulated her actions, and which she is determined to observe in the future. These principles are

well known. Defenseless Copenhagen saw them applied to herself when bombarded by English cannon. Their application is probably remembered to this day by the Finnish fishermen, whose boats were chased by English ships under the command of the famous Admiral Dundas. These principles have been elaborated by English statesmen and jurists into a very fixed system, according to which English armies must injure as much as possible the subjects of the enemy in order that they may force their government to make peace as soon as possible on the terms dictated by it. According to this system war means arbitrary acts of all kinds, force of all kinds, and the pillage without distinction of whatever falls into the enemy's hands. By its refusal to take part in the labors of the St. Petersburg conference, England shows that it is difficult for her to discontinue barbarous methods of warfare, and that it is unpleasant to her that she should be placed under any kind of restraint.

[Inclosure 2 in No. 90.—Translation.]

REFUSAL OF ENGLAND TO ATTEND THE CONFERENCE, &c.

[From the "Government Messenger" of February 27, 1875.]

The documents exchanged between the imperial cabinet of Russia and the English government, concerning the conference on the laws and customs of war, have been, on the part of the press, the subject of opinions which do not agree either with the sentiments which have suggested to His Majesty the Emperor this magnanimous initiative of humanity, or with the essential character of our relations with the cabinet of London.

We deem it as well to recall to mind that the desire to mitigate the horrors of war is not exclusively a Russian idea, and has not at all in view only the interests of Russia.

At different times private initiative, with a view of attaining this end, has made numerous attempts which have been recognized as a true advance.

The United States of North America found it necessary to publish a rule which should serve as a guide to the armies of the Union, during the war of secession, in order to render less sensible to the whole country the weight of that unhappy intestine struggle.

After the war of 1870, and on account of the considerable armaments which were made everywhere, the necessity of defining with precision the laws and customs of war was universally felt to such a degree that, at the very moment when the imperial cabinet proposed to submit this question to examination, certain private philanthropic societies had already taken it up, and one of them, which occupied itself in ameliorating the condition of the prisoners of war, had even proposed to convoke a conference at Paris. The project of this society was published, and the best proof that the need of overcoming the uncertainty of international law had become a general feeling, is the fact that this project embraced nearly all the questions which have reference to the laws and customs of war.

The imperial cabinet did not think it possible to leave to private initiative the examination of these important questions which bear on the immediate interests of governments, and which can only, therefore, obtain from the latter a practical solution.

Moreover, the imperial cabinet thought that the first step in calling together an official meeting of delegates from the various states, for the study of questions of general importance, devolved in the first rank upon His Imperial Majesty, by reason of the high moral position reached in Europe by the Emperor, who, thanks to his home and foreign policy during nearly twenty years, has given the pledge of pacific, humane, and enlightened tendencies, which have earned for His Majesty universal sympathy and respect.

But, we repeat, His Majesty the Emperor had solely in view to contribute by his initiative to the realization of an object, the utility of which is common to all humanity. Russia interested herself in it, for what concerns her personally, in proportion as she makes part of the whole of the great family of civilized peoples. No private or personal consideration prompted her to urge this or that means of settling the questions which she has submitted to the examination of the European governments.

Whatever decision may be taken, provided that it be really beneficial to humanity, Russia will support it with zeal. The cabinet only sought a calm, benevolent, and elevated discussion which would cast a ray of light and truth on those interests of great importance and concerning everybody.

It follows, as a matter of course, that in the study of these questions all sincere opinions, all loyal objections should be received and respected, and that the only thing to be regretted is a refusal which would deprive a great nation of the possibility of making its voice heard in the deliberations.

No. 497.

Mr. Schuyler to Mr. Fish.

No. 92.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 15, 1875. (Received April 7.)

SIR: Referring to the memorandum on the legal position of the Hebrews in Russia, inclosed in my dispatch, No. 21, of September 29, 1872, I have the honor to inform you that a commission is now sitting at the ministry of the interior for the consideration of some scheme for improving the condition of the Hebrews.

Prominent among the questions submitted is that of granting permission to the Hebrews to reside freely in all parts of the empire. I inclose to you, marked 1, an abstract of a report made to the commission on this question, by the member specially charged with its study, Mr. Grigorieff, a well-known orientalist, a professor in the university, and at present director of the press. This report is exceedingly interesting as showing the views of enlightened and conscientious government officials on this subject.

It is to be hoped that the commission will devise some method for relieving the ignorance and distress which certainly exist among the Hebrews of the western provinces.

I have, &c.,

EUGENE SCHUYLER.

 [Inclosure in No. 92.—Translation.]

Abstract of a report of Mr. V. Grigorieff, member of a commission for the improvement of the life of the Hebrews on the question of their place of residence.

The question of permitting the Hebrews to reside in all parts of the empire should be considered rather with a view to what would be the effects upon the interests of the immense majority of the Russian and other populations of the empire, than with regard to the interests of the Hebrews themselves. If, therefore, the distribution of the Hebrews throughout the empire threatens no evil consequences to the rest of the population in economical, moral, or political respects, and can, at the same time, better the condition of the Hebrews, there will be, of course, no reason for longer restricting them to the provinces where they at present reside. If it seems, however, that the contrary will be the case. The present restrictions on the Hebrews must be kept up, at least for the present. For that reason it is necessary to decide this question before any others.

The demand for an extension of the rights of residence does not come so much from the Hebrews themselves as from the local representatives of the government in the provinces where the Hebrew population is massed together, and their representations are less inspired by the thought of improving the condition of the Hebrews than by the desire to alleviate the sad condition of the native population. According to them the large number of Hebrews in proportion to the Christians has this result: that the Hebrews, not finding sufficient means for supporting themselves by honest labor, are compelled, so to speak, to earn their bread by exploiting the Christian population, or by having recourse to all kinds of underhand practices. The inference which they draw is that if the Hebrew population in Western Russia is thinned out it will be easier, both for the natives and the Hebrews, to support themselves by honest work. This conclusion, however, is illogical and impracticable. A great population is only burdensome to a country when the productive forces of that country are insufficient to nourish it; but it is impossible to say, with regard to the western provinces, that their soil, although bad in parts, is unable to feed the present population, or even one very much larger. According to the last census, the number of inhabitants to a square verst in these nine provinces was from 11 to 47, being on an average 24 7-9; but to make no comparison with much more thickly-settled foreign countries, the population in the provinces of Podolia and Kief, 47 and 40 to a square verst, is no greater than that of Kursk and Tula, while the rest are inferior in population to very many prov-

inces of the empire, which are by no means so good in soil. It will be seen, therefore, that the western provinces cannot complain of density of population. The number of inhabitants in these provinces, according to the last census, was 10,620,624, and the number of Hebrews 1,139,633. The Hebrew population was, therefore, in proportion to the Christian population, as 1 to 8 $\frac{1}{2}$, though on account of the means which the Hebrews employed to avoid registration we may consider them even as 1 to 6. We find the same average relations between the Mohammedan and the Christian population in the provinces of Simbirsk, Samara, and Kazan, to say nothing of Orenburg, where Mohammedans and Christians are in equal numbers, yet no one has complained of the great numbers of Mohammedans in these three provinces, no one considers it an evil, no one accuses the Mussulman of exploiting the Christian population, and it has never entered the head of anybody for the good of the latter to insist that the Mohammedan population should be lessened by distributing it among other provinces. It is evident, therefore, that the evils arising from the numbers of the Hebrew population in the western provinces do not come from their great ratio to the Christian population, but from something else. On investigation it is impossible not to see that the cause why they and not other races are hurtful springs from the fact that the Hebrews do not wish to exist by the same means as the rest of the population.

Russia, including also the western provinces, is an agricultural country, and the great majority of the inhabitants must get their living by cultivating the ground. We should consequently expect that the most of the Hebrews who live in Russia would occupy themselves with agriculture. Were this the case the Hebrews would be no burden on the rest of the population, however numerous they might be. In spite of this the Hebrews, not only in the western provinces, but wherever they are, never become agriculturists. It is well known that the many and various attempts of the government to make them farmers have always failed, not because the measures themselves were badly taken, but because the Hebrews absolutely refused to carry them out. The Hebrew says that he is weak in body and unfit to be an agriculturist, but can be profitable to the country in other ways, as, for instance, as an artisan. It is, however, false that the Hebrew is any weaker than a peasant of White Russia, worn out by years of cold and oppression; but when such a peasant cannot feed himself and his family at home, he goes for hundreds and thousands of versts for agricultural labor and works satisfactorily. Did it ever come into the head of any Hebrew to support himself in this way? Did any Hebrew community ever ask to be allowed to emigrate into Great Russia for this reason? As to being an artisan, that is only an excuse for avoiding heavy labor. Are there any Hebrew artisans who are stone-cutters, or carpenters, or smiths, or, in general, laborers working under the open sky, with considerable loss of the muscular strength? Even as artisans the Hebrews prefer to be tailors, hatters, shoemakers, turners, watch-makers, and jewelers. In these branches of trade there are certainly very many skillful and industrious workmen among the Hebrews, but it would be strange if a whole million of inhabitants should desire exclusively to work at these trades, and then complain, as the Hebrews do, that there are not buyers enough for their productions, and that therefore they are hungry and cold. Are such complaints well founded or worthy of attention? The Hebrews have great musical capacities, and many of them are living by being wandering musicians, but it would be absurd if the majority of Hebrews should ask to earn their living only by this means, and yet their desire to limit themselves to certain trades is very similar to a demand of this kind. There are numerous poor populations throughout Western Europe, but where they wish to exist by honest labor they invent new trades and industries, which, although not very great, still bring them in bread, such as the manufacture of tin-ware in the Carpathians, wood-carving in the Tyrol, and the manufacture of wooden clocks in Switzerland; but the poor Hebrews have invented nothing of this kind.

The Hebrews might with profit to themselves and to the western provinces occupy themselves with manufactures. The concentration of capital in the hands of some of them gives them every possibility of carrying on the working-up of local raw materials. Western Europe is supplied with hemp which comes from the western provinces, or through them. Why could they not introduce rope-works? The same question might be asked with regard to linen manufacture, which supports tens of thousands looms abroad. The country is rich in forests, yet no one has ever opened a cabinet manufactory, such as exists in Riga, or a manufactory of cheap furniture, which is so dear in Russia, and would have such an excellent sale. Instead of manufactures of this kind the Hebrews have occupied themselves in White Russia only with the distillation of spirits, and that not so much for the business itself as for the possibility of obtaining illegal gains through it.

The only industry by which the Hebrews wish to live, and by which the greater part of them do live, and for which they are abundantly qualified, is that of being factors and middlemen. As such they have acquired an amount of influence which renders both buying and selling impossible without their aid. It appears in this way that the Hebrews wish to exist, and do exist, in great part only by absorbing the fruits of

others' labor and by producing almost nothing themselves, in consequence of which they are a burden to the provinces where they settle greater in proportion to their numbers. The economical injury which they cause to the local population is incalculable. The existence of middlemen is frequently an evil, but how much more so when these middlemen constitute a caste having nothing in common with the rest of the population either by origin, religion, or language, a caste which desires to know nothing in the world except their fellow-believers and their benefit, considering Christians as their born enemies, a caste petrified in their isolation, often following fanatical leaders and regarding the laws of the country in which they live as only externally binding on them, avoiding compliance with them by all possible means, and always in every matter acting together.

The economical evil, however, which the Hebrews work to the natives is only one of the ways in which they injure them. They not only ruin but they corrupt the native population. In order to exist in these conditions, outside of which the Hebrews do not wish to exist, they must necessarily have recourse to unlawful and criminal acts, more especially because, first, they do not consider the laws of the state binding on their consciences; and secondly, because their close union and the way in which they all stand up for one gives them the possibility of escaping punishment. Then the Hebrew population living on the frontier almost always occupies itself with smuggling, thus diminishing the government revenues. Hebrews here are often also sellers of stolen goods. Into criminal acts of this kind they also entice the native population, which would not be so easily led astray were it not so thoroughly dependent upon them. They see also the ease with which the Hebrews escape punishment.

With such an influence of the Hebrews in the western provinces it is not surprising that the authorities and the local population groan under the burden and recommend to the government any measure which may relieve them. But as we have seen that the evils do not come from the absolute numbers of the Hebrews, but from their disinclination to work, the problem is, not how to diminish the Hebrew population, but how to change their condition of life so as to turn them from parasites into producers. If the Hebrews do not wish this, and desire to remain as they are, their distribution throughout Russia would only introduce into it the same evils which now weigh upon the western provinces. An example of this may be seen in the south of Russia. No further back than the end of the last century the region of New Russia was a waste where wild horses still pastured. It has quickly become settled and prosperous owing to the labor which has been given to working its virgin soil. A share in this rich soil was also allotted by the government to the Hebrews, but even there they found it impossible to work it. From the farm houses which had been constructed for them they carried off the doors, the window-frames, everything that was movable, even to the agricultural tools with which they were provided, and ran away. The commercial city of Odessa attracted to it the Hebrew population, and they there began to get a living by day-work in the grain warehouses and by their usual trades. With these means of subsistence they would not only have been harmless but even profitable, notwithstanding their great numbers, (in 1858 in the 104,500 population of Odessa there were 14,100, that is one-seventh,) but little by little they began to get into their hands great amounts of capital, began to become middlemen, and are at present the real commercial masters of the region, having full possession of all the grain trade so that neither producers nor purchasers can carry on their business without them, and are forced to buy and sell at the prices they fix. The country suffers from this. The riot some three years ago against the Hebrews in Odessa was not so much the effect of religious fanaticism as it was a protest against their rule.

Hebrew distillers and Hebrew artisans are allowed in all parts of the empire, but nowhere have they by any means distinguished themselves in their trades. Distilling serves only as a pretext for cheating the excise; and, under the guise of artisans, vagabonds of all kinds come, who by their presence immediately increase the percentage of crime in the districts where they settle. Wherever there are two or three Hebrew families there immediately begins a trade in all sorts of old rubbish, which quickly passes into a traffic of stolen goods, coin immediately disappears, and not uncommonly counterfeit money begins to circulate. The Hebrews, for themselves or through their wives, obtain confidence by proposing their services to unwary people, giving small sums on loan, taking all kinds of things in pledge, and in a short time both masters and servants get entangled in their nets to such a degree that they cannot extricate themselves. If such is the evil brought by the Hebrews into Great Russia, where they are found in relatively insignificant numbers, what will it be if we open the doors wider to them?

The supporters of the idea of promoting the Hebrews' entrance into Great Russia say that there they will not be dangerous, because the Great Russian peasant has a much stronger and more independent character than the White Russian. This, however, makes little difference. Even the Greeks, who were noted for their commercial talent, have been pushed out of business at Odessa by the Hebrews. The only place where the settlement of the Hebrews would not be dangerous is among the Russian secta-

rians, who have a similar organization to the Hebrews; but the sectarians constitute such an insignificant percentage of the population that they could not be taken into account in considering this question. It must not be left out of view that the better part of the Hebrew population is already allowed admission to the rest of the empire. However burdensome the Hebrews may be to the western provinces, it is much better that one part rather than the whole of the body-public should suffer, especially as the strength of the Hebrews is great and increases daily and hourly. In the society known as *L'Alliance Israélite*, the Hebrew race has its own government, which exercises pressure on any government that is not strong enough to stand against it. Many ask why it is harmless for the rest of the population that Hebrews have civil and political rights in England, France, and Germany. This harmlessness is easily explained; on one hand, by the great civilization and intellectual development of those countries, by which the Christian population better understands its interests and can better protect them, and, on the other hand, by the relative smallness of the Hebrew element. In Great Britain there are not more than 40,000, and in France 100,000. But even in those parts of Western Europe where the Hebrew inhabitants constitute a considerable percentage of the population, they are a burden to the country, call out general complaint, and threaten a state of things similar to that which exists in our western provinces. In Vienna, for example, the Hebrews have got into their hands all the banking-houses, all the newspaper press, and the best part of the real estate of the city.

In view of all that has been stated, the unconditional permission to the Hebrews to immigrate into Great Russia would be an experiment dangerous in the highest degree, and not offering the slightest profit, or bettering the present condition of things. In a word, while the Hebrews remain what they are, it is impossible for the government to act toward them as toward the other nationalities of the empire, or give them the same rights that others enjoy. That can only be allowed when all possible measures have been tried for first making them productive and profitable citizens in the places of their present residence, and when these measures have met with full success. There is no reason to despair of finding and applying such measures. The Hebrews were not always such as we see them now in the western provinces, and are not such everywhere now. The great cause of their present position is chiefly owing to their selfish, ignorant, and fanatical leaders. Freed from their oppression, the mass may become re-educated and renewed. To show how this end may be accomplished is the problem of our commission.

No. 498.

Mr. Schuyler to Mr. Fish.

No. 93.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 17, 1875. (Received April 7.)

SIR: I have the honor to inclose to you herewith, marked 1, 2, and 3, the budget of the Russian Empire for 1875, the report of the minister of finances thereon; and the report of the credit establishments for 1873.

Omitting the items which balance on both sides of the budget, the receipts for 1875 are estimated at 532,306,209 rubles, and the expenses at 529,050,426 rubles, leaving a surplus of 3,255,783 rubles.

The treasury receipts have been constantly increasing for the last few years, since the improved administration of the finances under the present minister, Mr. Rentern, as will be seen by the following table:

| | Millions of rubles. |
|-----------|------------------------|
| 1866..... | 382 |
| 1867..... | 423½ |
| 1868..... | 423½ |
| 1869..... | 457½ |
| 1870..... | 480½ |
| 1871..... | 508½ |
| 1872..... | 523 |
| 1873..... | 538 |

This increase of revenue chiefly arose as follows, expressed in millions of rubles:

| | 1868. | 1869. | 1870. | 1871. | 1872. | 1873. |
|----------------------------|-------|-------|-------|-------|-------|-------|
| Excise on spirits..... | 133 | 137 | 163 | 174 | 172 | 179 |
| Direct taxes..... | 88 | 90 | 96 | 94 | 94 | 93 |
| Customs..... | 35 | 40 | 41 | 47 | 53 | 54 |
| Permissions for trade..... | 10 | 11 | 11 | 12 | 12 | 13 |
| Salt duties..... | 10 | 9 | 11 | 12 | 13 | 11 |
| Tobacco duties..... | 7 | 7 | 8 | 8 | 10 | 10 |
| Stamped paper..... | 7 | 6 | 7 | 7 | 8 | 8 |
| Official fees..... | 3 | 3 | 4 | 5 | 6 | 7 |
| Passports..... | 2 | 2 | 2 | 2 | 2 | 2 |
| Railway receipts..... | 15 | 16 | 13 | 13 | 14 | 17 |

Three of the main items of revenue, excise on spirits, direct taxes, and salt duties, do not come from the productive forces of the country, and do not show any increase of public or commercial well-being; on the contrary, their augmentation is a growing burden upon the people. Under such conditions it is very natural that the population increases slowly, that the national wealth does not grow fast, and there may be cases when the revenues of the state will be drawn, not from the income of the people, but from their capital. The increase, for instance, in the excise on spirits is due partly to drunkenness among the people, and partly to the higher excise duties, but it is accompanied, for the last year for which the accounts have been made up, by a falling off in the direct taxes, and naturally by a lessening among the peasantry of the sum spent on the improvement of their food, clothing, and dwellings. The direct taxes, as the minister himself says, it is at present impossible to increase; and it is much to be hoped that the change in the assessment of these taxes, which are now paid entirely by the peasantry, (the noble and mercantile classes being at present exempt,) will be so arranged as to fall more equably upon the population.

The salt and passport duties are both opposed to the increase of national prosperity; the first depriving the poor people of a necessary adjunct to their coarse food and injuring cattle-raising, the second also falling principally, as it must, upon the peasantry, and burdening them not only by the sum itself which is paid into the treasury, but by the secondary expenses, and the great loss of time, which is precious to workmen.

At the same time, with the increase of the revenues, the expenses have also increased.

The state expenses were, in—

| | Millions of rubles. |
|-----------|------------------------|
| 1866..... | 432 $\frac{3}{4}$ |
| 1867..... | 424 $\frac{9}{10}$ |
| 1868..... | 441 $\frac{3}{10}$ |
| 1869..... | 463 $\frac{7}{10}$ |
| 1870..... | 485 $\frac{1}{2}$ |
| 1871..... | 499 $\frac{3}{4}$ |
| 1872..... | 523 |
| 1873..... | 539 $\frac{1}{4}$ |

The chief items of these expenses, expressed in millions of rubles, are as follows :

| | 1868. | 1869. | 1870. | 1871. | 1872. | 1873. |
|---|-------|-------|-------|-------|-------|-------|
| Ministry of war..... | 136 | 147 | 145 | 159 | 165 | 175 |
| Ministry of finances..... | 89 | 90 | 91 | 91 | 103 | 100 |
| Interest and payment of state debt..... | 79 | 88 | 86 | 85 | 88 | 93 |
| Ministry of interior..... | 37 | 39 | 42 | 43 | 43 | 43 |
| Ministry of communications..... | 22 | 25 | 38 | 33 | 31 | 29 |
| Ministry of marine..... | 18 | 18 | 20 | 21 | 22 | 25 |
| Ministry of instruction..... | 8 | 9 | 10 | 10 | 11 | 12 |
| Ministry of justice..... | 9 | 9 | 9 | 10 | 10 | 11 |
| Ministry of court..... | 10 | 10 | 10 | 10 | 10 | 13 |
| Holy synod..... | 7 | 7 | 8 | 9 | 9 | 9 |

It seems impossible to expect any diminution of these expenses, but, on the contrary, a constant increase, which it may be difficult for the treasury to meet.

In my dispatch No. 57, of January 28, 1873, inclosing the budget for that year, I stated that a surplus of 27,672 rubles was then anticipated, but expressed a doubt whether the increase of revenues would correspond to the increase of expenditure which it was foreseen would be necessary so as to leave a surplus. Such, indeed, was the case. The expenses were 25,958,580 rubles, or about 5 per cent. greater than the estimates, and the result of the year was a deficit of 1,198,014 rubles. During the two previous years, however, the complete returns of the treasury did really, for the first time in the modern history of the country, show a surplus, and it is unfortunate that the period of deficits has again begun. The result of the treasury balances for the eight years from 1866 to 1873 is as follows :

| | Deficits. | Surplus. |
|------------|------------|-----------|
| 1866 | 50,560,000 | |
| 1867 | 1,773,000 | |
| 1868 | 17,739,000 | |
| 1869 | 11,301,000 | |
| 1870 | 4,923,000 | |
| 1871 | | 8,453,000 |
| 1872 | | 630,000 |
| 1873 | 1,198,000 | |

This want of accordance of the results of the completed accounts with the estimates is owing in part to the enormous extra budgetary or foreseen expenses, which, for the last few years, are as follows :

| | Rubles. |
|------------|------------|
| 1869 | 37,181,880 |
| 1870 | 35,801,426 |
| 1871 | 35,698,066 |
| 1872 | 34,488,164 |
| 1873 | 26,367,822 |

The great increase of revenue is therefore swallowed up in new expenditure, and affords no relief by diminishing taxation. It would seem that some method might be adopted for including these sums in the budget, and refusing all other expenditures until the next year's estimates, especially when we find that, out of the 26,367,822 rubles spent in 1873 beyond the estimates, only 7,051,508 were necessitated by exceptional and actually unforeseen circumstances.

With the extra budgetary expenses for 1875 in the same ratio as in preceding years the total *actual* expenses would be, not 529,000,000, but 555,000,000, and it would therefore require an increase of the actual receipts over the estimates of 23,000,000 to prevent a deficit. The main revenues not being in proportion to the productive forces of the country,

a point must sometime be reached at which increased taxation will diminish and not increase the revenue, and there are indications that the Russian treasury is approaching that point.

The increase of the estimates for 1875 over those of 1874 of 17,938,294 rubles is chiefly owing to the collection by the treasury of certain local taxes, to an additional tax on real estate, and an additional tax on the rights of trading.

I have, &c.,

EUGENE SCHUYLER.

No. 499.

Mr. Schuyler to Mr. Fish.

No. 102.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 15, 1875. (Received May 6.)

SIR: I have the honor to inform you that on the 19th of February, (3d of March,) the anniversary of the accession to the throne, the Emperor issued a decree extending the judicial reform to the provinces formerly constituting the kingdom of Poland.

There are some differences between the system applied to Poland and that introduced in 1864 into other parts of the empire, the most material of which are, that the justices of the peace in the towns are appointed by the government, and are removable at pleasure; that the judges of the superior courts are also removable unless they have served in the same capacity for three years; that the jury system is not applied, and that councils of advocates are not formed. As in the articles with regard to juries and to the removability of the judges the expression "*until further order*" is used, it is probable that the application of the new tribunals to Poland is looked upon as an experiment, and if it be successful they will be assimilated to the Russian system. The introduction of the jury system would even be easier in Poland than in Russia, in consequence of the relatively general education of the country and the existence of the Code Napoleon, as well as of the fact that the jury system formed part of the old Polish jurisprudence.

Another very important difference between the Polish and Russian systems is, that by the terms of the law the government has the right of transferring matters from one court and district to another court and district. The importance of this is obvious when it is seen that the whole of Poland constitutes but one judicial district, and therefore it will be possible for the authorities to transfer cases from the kingdom to other provinces of the empire. In one respect the Polish system is far better than the Russian. The cantonal or *gmina* courts, with their elective justices, are retained much as they were instituted in 1864, and are assimilated to the courts of justices of the peace existing in the towns; appeals being taken to a general session composed of justices of the peace and of the cantonal judges. The cantonal or *volost* courts in Russia are in a bad state, and have nothing in common with the rest of the judicial system. The *gmina* or cantonal court consists of a cantonal judge and of not less than three *lawniks* or assistants, all elected for three years by the cantonal assembly. The judges must be residents of the canton, not less than twenty-five years old, with a right of participating in the affairs of the assembly, and must have either studied in some educational institution or passed a corresponding examination, or have served for three years in duties from which they could obtain a

practical knowledge of jurisprudence, and, besides, they must have a certain property qualification.

This part of the reform must necessarily exercise a beneficial influence, because it shows the confidence of the government in the rural population, and does not prevent the local nobility from taking part in public matters, as they are eligible for members of the cantonal courts. It is only by giving them in this way some share in public affairs that they will be brought into complete sympathy with the government.

I have, &c.,

EUGENE SCHUYLER.

No. 500.

Mr. Schuyler to Mr. Fish.

No. 103.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 15, 1875. (Received May 6.)

SIR: Referring to my dispatch No. 77, of 30th January, on the subject of the conversion of the united Greeks to the orthodox church, I have the honor to inform you that the "reunion" of nearly the whole of this body has been accomplished.

Reports having been received from all the deans of the province of Lublin respecting the desire of their flocks to enter into the orthodox church, the clergy of the diocesan chapter of Chelm, and the members of the ecclesiastical seminary of the diocese, met on the 2d of March, and, after considering the actual state of affairs, unanimously decided to ask for the authorization of the Emperor for reunion with the orthodox church.

General Kotzebue, the governor-general of Warsaw, then made an inquiry which convinced him that all the parishes of the province of Lublin were perfectly agreed with their clergy in this matter.

On the report of the minister of the interior, the Emperor therefore received, on the 6th April, at the winter palace, a deputation of the clergy of Chelm and of the parishes of the province of Lublin, as well as of several districts of the province of Siedlce. The deputation was headed by the arch-priest Pópiel, the administrator of the diocese, to whose efforts these conversions are very generally due. His Majesty received the petition of the clergy and the protocol of the council of Chelm, and in a few words expressed to the deputation his great satisfaction at this expression of their wishes.

The Uniates in the province of Lublin, who were thus received into the orthodox church, number about 111,000. The number of conversions in the province of Siedlce has also reached 100,000—forty-two parishes and thirty priests of that province being received into the church on the same day (6th April) in the parish church of Yanoff, where the archbishop of Warsaw celebrated divine service.

In so far as unity of religion may tend to community of interests and to the welfare of the state, the government must profit by these conversions. The defection of such a large number of persons, however brought about, is a severe blow to Catholicism in Poland, which has always been suspected by the government of intrigues and plots against its authority.

I have, &c.,

EUGENE SCHUYLER.

No. 501.

Mr. Schuyler to Mr. Fish.

No. 107.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 23, 1875. (Received May 14.)

SIR: I have the honor to inform you that, according to the "Odessa Messenger," on the initiative of the minister of domains, the Menuonites, called into the military service by the conscription, will be organized into companies of workmen and employed in forest cultivation on the lands belonging to the state in South Russia.

An official of the minister of domains has been sent to Odessa to organize this useful enterprise, and in general to study the question of forest-planting in the country.

I have, &c.,

EUGENE SCHUYLER.

No. 502.

Mr. Schuyler to Mr. Fish.

No. 109.]

LEGATION OF THE UNITED STATES,
St. Petersburg, April 26, 1875. (Received May 14.)

SIR: Referring to my dispatch No. 105, of the 21st of April, I have the honor to inclose to you herewith, marked 1, a short study of the problem of international law, raised by the German note of the 3d of February, from a strictly juridical point of view, by Mr. J. Horning, professor of public, international, and penal law in the University of Geneva.

This essay, which presents in a clear light the present state of European legislation on this subject, is particularly interesting, as it shows in the German legislation the same defects which the German government has pointed out in the legislation of Belgium.

It is now stated that the German government has addressed similar notes to the governments of Holland and Luxembourg.

Here it is authoritatively stated that the report that the Russian government had supported the remonstrance of Germany at Brussels is entirely without foundation.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure 1 in No. 109.—Translation.]

STUDY OF THE PROBLEM OF INTERNATIONAL LAW.

The German note to Belgium of the 3d of February considered from a juridical point of view.
By Prof. J. Horning, of Geneva.

From the point of view of present international law it is impossible to agree with Germany in the remonstrances which she has just addressed to Belgium.

The government of Berlin reproaches that of Brussels with not having in its laws sufficient directions for the repression of offenses committed on Belgian territory against the peace of neighboring states, that is to say, against the law of nations.

In order to establish this accusation it would be necessary that Belgian legislation concerning this category of offenses should be less explicit and less severe than that of other civilized states, and particularly less so than that of Germany herself, since it is Germany who complains.

Now it will be seen that Belgian legislation on offenses against international law is nearly identical with that of the German Empire. It is even more severe; and, besides, in comparison with other European legislations, it is found to be one of the most complete and most rigorous.

In the first place the Belgian law and the German law are almost the same on this point. In fact, if the Belgian laws of 1852 and of 1858 are taken on the one hand, and the penal code of the German Empire (1870) on the other, these texts are seen to provide for the same offenses.

The Belgian law of 1852 is intended to punish offenses against the chiefs of foreign governments; the much more general law of 1858 deals with crimes and offenses which violate international relations. These two laws have been upheld by the Belgian penal code of 1867, which in its article 123, punishes only those who by hostile actions shall have exposed the state to hostilities on the part of a foreign power. The penal code of the German Empire provides for offenses against foreign states in its sections 102, 103, and 104.

These different laws, therefore, punish exactly the same offenses, namely, attempts against the life of the chief of a foreign government or against the form of that government, the act of publicly exciting the subjects of such government to arm themselves against it, offenses against such government and offenses and acts of violence against foreign diplomatic agents. As to the conditions which constitute an offense, the Belgian law of 1858 punishes an attempt against the person of the chief of a government as soon as criminal intention has been shown by external acts, forming a commencement of execution. It punishes a plot against the person of the chief of a foreign government, such plot having for its object to destroy or change the form of that government, or to excite the inhabitants to arm themselves against it, as soon as the plot has been followed by an act destined to prepare its execution. The German code says that every act, (attempts against the prince, constitution, &c.,) the object of which is to lead directly to the execution of the design which has been formed, ought to be considered as an enterprise constituting the crime of high treason.

Moreover, while the Belgian laws make no restriction here, the German code demands for the punishment of offenses in question the complaint of the government concerned and reciprocity in favor of Germany.

Therefore the German code says no more about the matter than the Belgian laws. It makes no better provision than they do for cases such as those of which the Berlin cabinet complains, viz, simple incitements to disobedience or the act of having simply proposed to a third party the undertaking of an assassination, when such proposition has been immediately rejected. There is in the latter case neither plot, preliminary act, nor attempt. The German code does not even punish an act of this kind when committed against the Emperor on German territory.*

Consequently Germany has not succeeded in sustaining that Belgium does not possess a legislation adequate to offenses against the law of nations. One country cannot require another to do more than it does itself.

The repression by each state of offenses committed on its territory against international law, is now a matter of general legislation. This is a great progress, for complications, or even war, may thus be avoided.

But no country goes farther, or even so far, as Belgium.

Thus our federal penal code of 1853, articles 41 to 44, punishes the following offenses: The act of violating a foreign territory, or of committing any other act contrary to the law of nations; outrage against a foreign nation or its sovereign, or a foreign government; outrage against, or ill-treatment of, the representative of a foreign nation. It must be observed, besides, that our penal code, like that of Germany, requires, in order that an outrage against a foreign government may be prosecuted, the demand of that government and the reciprocity toward the confederation.

The Belgian law, we have said, does not mention these conditions. Article 37, quoted by Count Perponcher, has no reference to the subject under discussion, since it relates to offenses against the security of the confederation abroad. He makes there a pure and simple error.

Other European legislations do not go farther than that of Belgium. Thus the Austrian penal code (1852) is almost identical with the German code; it requires reciprocity in the same way. But above all, the French penal code of 1810, in articles 84 and 85, does not punish offenses against international law, except when they result in injury to France or to Frenchmen: "Whoever, by hostile actions, shall have exposed the state to a declaration of war, &c.; whoever shall have exposed Frenchmen to reprisals, &c." Here France is evidently behind other European states. The

*The proposition of a plot, made and not accepted, was punished by the French penal code of 1810, but that article was suppressed in 1832.—*Author's note.*

Italian penal code (1859) reproduces in the first place the dispositions of the French code, and then punishes in every case plots against the life of the chief of a foreign government. Lastly, English law and the laws of the American Union only punish offenses against diplomatic agents. (We have purposely not mentioned the repression of piracy, which belongs to another kind of idea.)

It is seen then by these references that Belgian legislation is, of all those of Europe, the most explicit and the most complete in that which concerns offenses against the law of nations. Consequently, from a juridical point of view, Germany has no ground for reproaching her with not being on a level with the present general legislation.*

But, in conclusion, I wish to reserve entirely the political question. It is evident that the clergy and the Catholics of Belgium have exposed themselves to the remonstrances of Germany by meddling in the internal affairs of that country in order to excite the Prussian clergy to disobedience. Similar acts are not punished when they are committed on a foreign territory, but they are none the less imprudent and culpable. They clearly prove that ultramontanism places in peril the existence even of liberal states. The partisans of this doctrine see absolutely nothing but ecclesiastical interests, and sacrifice to them everything else. The ultramontane party of Belgium, in particular, shows, by its actions, not only that it has no respect for order and legality in foreign states, but even that it has no patriotism. In fact, in order to satisfy its clerical hatred, it does not scruple to expose Belgium to serious complications. It has very little concern for the welfare of the country, so long as it serves the interests of the church. If, therefore, we cannot blame the Belgian government, we blame without reserve the imprudent and anti-patriotic conduct of those who have placed it in its present difficult position.

No. 503.

Mr. Schuyler to Mr. Fish.

No. 112.]

LEGATION OF THE UNITED STATES,
St. Petersburg, May 6, 1875. (Received May 25.)

SIR: The efforts for a renewal of the Brussels conference are not so successful as was at first hoped. Baron Jomini, who has been given the charge of the foreign office during Prince Gortchacoff's absence, is, I understand, shortly to issue a new circular on the subject.

According to my information the substance of this circular will be that several governments have asked when they can send delegates for further deliberation on the questions of the laws and usages of war discussed at Brussels; that several governments, however, had not finally replied, giving their opinions on the propositions placed before them; and that consequently until their opinions had been received, it would be premature to discuss the time of reunion.

I have, &c.,

EUGENE SCHUYLER.

No. 504.

Mr. Schuyler to Mr. Fish.

No. 114.]

LEGATION OF THE UNITED STATES,
St. Petersburg, May 10, 1875. (Received June 1.)

SIR: The Russian government has just issued a new consolidated railway loan to the amount of £15,000,000, the success of which is considered a matter of congratulation.

In 1870 the government found that Russian credit was lowered by the different railway companies going on the foreign markets separately in

*It is strange that in its reply to the German note the Belgian government should not have thought of the argument which we have just developed. It confines itself to considerations of a political kind. There are indeed some words on the Duchesne affair, but the true legal arguments are completely passed over in silence. I confess I cannot understand how the cabinet of Brussels could omit them.—
Author's note

order to realize their capital. The government, therefore, invented a system of connecting together several railways or groups of railways, and obtaining a loan for them jointly, with the guarantee of the government for the payment of interest.

The first loan of £12,000,000 at 5 per cent. was brought out in 1870, at 79 $\frac{1}{4}$; the second for the same sum in 1871, at 81 $\frac{1}{2}$; the third for £15,000,000 in 1872, at 89; and the fourth for the same amount in 1873, at 93.

As each new loan was taken at a rate still more advantageous to the government, and was largely over-subscribed, the ministry of finances thought that it might do much better; consequently the present loan of £15,000,000 was placed at 4 $\frac{1}{2}$ per cent. and was given at 92, which is equivalent to a little over 102 for a 5 per cent. loan. Of this loan £2,000,000 were reserved, that is, were taken by the department of appanages of the Imperial family, £8,000,000 were placed on the foreign market, and £5,000,000 were reserved for Russia. The result of this loan in Russia showed the judgment of the minister, for the subscription amounted to £29,541,540, or nearly six times the amount.

The roads for which the loan was taken have most of them been begun, but none of them will be in a position to pay interest during the present year, and it is therefore worthy of notice that the amount which has to be paid at one year's interest on the present loan (£675,000 or nearly five millions of rubles) will completely swamp the expected surplus of the present year of 3,255,783 rubles.

It is not, however, to be supposed that the £29,541,540 subscribed was a genuine subscription, but it is a part of the speculation which is now so rife here. People knew that the previous loans had been over-subscribed, and therefore everybody thought it necessary to subscribe for five or even ten times as much as they wanted, in the hope of getting something, and even this something was not desired as an investment, but the subscribers were anxious to sell out during the rise which would probably occur as soon as the result of the subscription was declared. In previous years the direction of the bank has allotted the amounts to the subscribers at pleasure, but this year the allotments were made at a regular percentage, all subscribers up to £5,000 receiving in full, and the rest taking 16 per cent.

In consequence of all the large financiers having as much of the loan as they desired, as well as on account of rumors that the loan had not gone well in London, the price on the Bourse did not at once rise. The rate of interest at the government bank has since been lowered from 3 to 2 per cent., and consequently at all the other banks from 4 to 3 per cent., the result of which has been to send much money on the exchange for the purchase of various stocks, and thus cause a general rise in funds and much speculation.

I have, &c.

EUGENE SCHUYLER.

No. 505.

Mr. Schuyler to Mr. Fish.

No. 116.]

LEGATION OF THE UNITED STATES,
St. Petersburg, May 15, 1875. (Received June 3.)

SIR: I have the honor to inform you that a treaty has been concluded between Russia and Japan, by which Russia cedes to Japan the Kurile

Islands, in exchange for all the rights of Japan to the island of Saghalien.]

I understand that the treaty has already been ratified by the Emperor of Russia.

I have, &c.,

EUGENE SCHUYLER.

No. 506.

Mr. Schuyler to Mr. Fish.

No. 118.]

LEGATION OF THE UNITED STATES,
St. Petersburg, May 18, 1875. (Received June 3.)

SIR: I have been informed that shortly before the departure of the Emperor, the German Ambassador presented at the Russian foreign office a proposition for the revision of the Russian laws with regard to offenses against the peace and quiet of other states, the question started by the exchange of notes with Belgium, referred to in my dispatches Nos. 105 and 109.

The Russian government did not, at the time, seem disposed to meet the wishes of Germany in this matter, not expecting any practical advantage to result.

I have, &c.,

EUGENE SCHUYLER.

No. 507.

Mr. Schuyler to Mr. Fish.

No. 123.]

LEGATION OF THE UNITED STATES,
St. Petersburg, June 22, 1875. (Received July 14.)

SIR: Referring to my last dispatch, No. 122, on the subject of the arrest of the Peruvian bark "*Maria Luz*," I have the honor to inclose to you herewith, marked 1 and 2, a copy and translation of the decision of the Emperor of Russia in the matter.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure 2 in No. 123.—Translation.]

Decision of the Emperor of Russia in the case of the "Maria Luz," dated May 17, (29,) 1875.

We, Alexander II, by the grace of God, Emperor of all the Russias.

In compliance with the request which has been made to us by the governments of Japan and Peru, contained in a protocol drawn up with common consent at Tokei by the plenipotentiaries of the two governments on the 13th and 25th of June, 1873, corresponding to the 25th day of the 6th month of the 6th year of Meiji, we have agreed to examine the difference pending between the two governments in connection with the stay of the ship "*Maria Luz*," in the port of Kanagawa, and particularly the claim of the Peruvian government, tending to render the Japanese government responsible for all the consequences arising out of the action of the Japanese authori-

ties with respect to the "Maria Luz," her crew and passengers, at the time of the stay of that ship at Kanagawa, and we have consented to take upon ourselves the task of pronouncing a sentence of arbitration which shall be definitive and obligatory for both parties, and as to which no objection, explanation, or delay whatever shall be made.

Having, consequently, maturely weighed the considerations and conclusions of the juris consults, and of the competent persons, charged to study the affair, from the documents and statements which have been transmitted to us in conformity with the above mentioned protocol—

We have arrived at the conviction, that in proceeding as it did with regard to the "Maria Luz," her crew and passengers, the Japanese government acted in good faith (*bona fide*) in virtue of its own laws and customs, without infringing the general prescriptions of the law of nations, or the stipulations of particular treaties.

That therefore it cannot be reproached for a willful want of respect, or for any malevolent intention, toward the Peruvian government or its citizens.

That the various kinds of opinions provoked by this incident may inspire governments who have no special treaties with Japan, with the desire to make reciprocal international relations more precise, in order to avoid in the future every similar misunderstanding; for they cannot, in the absence of formal stipulations, cause to be placed upon the Japanese government the responsibility of action which it has not wittingly provoked, and of measures which are in conformity with its own legislation.

Consequently we have not found sufficient grounds for recognizing, as irregular, the acts of the Japanese authorities in the affair of the ship "Maria Luz;" and attributing the losses sustained to an unfortunate combination of circumstances,

We pronounce the following sentence of arbitration:

The government of Japan is not responsible for the consequences which were produced by the stay of the Peruvian ship "Maria Luz" in the port of Kanagawa.

In faith whereof we have signed the present sentence, and have caused our imperial seal to be affixed thereto.

Done at Ems the 17th (29th) May, 1875.

(The original is signed by the hand of His Majesty the Emperor.)

(SEAL.)

ALEXANDER.

For true copy:

The acting minister for foreign affairs,

BARON JOMINI.

No. 508.

Mr. Schuyler to Mr. Fish.

No. 136.]

LEGATION OF THE UNITED STATES,
Saint Petersburg, July 20, 1875. (Received August 9.)

SIR: In accordance with the programme which had been decided on when it was expected that the Emperor would remain a longer time abroad, the King of Sweden and Norway arrived at Riga on the 9th of July, and after a few hours stay, proceeded immediately to Moscow, where he remained for several days.

At noon of the 14th he entered S. Petersburg by special train, being met at the station by the Emperor and all the grand-dukes. Here a breakfast was prepared for him, and he proceeded immediately to Peterhof, the present summer residence of the Imperial family.

He left here last evening, the 19th, on his return to Sweden, in the Swedish flag-ship "Vanadis," under the convoy of a Russian squadron.

His stay here was occupied partly in visiting St. Petersburg, and partly with the usual festivities attendant on such visits—a military review at the camp, a review of the fleet at Cronstadt, and a grand dinner and open-air fête at Peterhof.

During the dinner the King proposed the following toast:

"I drink to the health of His Majesty the Emperor Alexander. I came here to grasp the hand of a good neighbor, and I found that of a friend. The reception that I have met with from you, sire, and everywhere in your states, adds to my gratitude."

The government thinks that this visit of King Oscar II will have a great effect in strengthening those friendly relations between Sweden and Russia which for the last few years have been rapidly increasing. There are now no causes of jealousy between these countries, and the ancient feelings of enmity which have endured for centuries are gradually dying out.

The King did not feel that he could visit Finland, as that province had been taken from Sweden so lately.

Finland, however, has too long enjoyed a semi-independence to wish to return to Sweden, and feels itself more secure under the protection of a great power than under that of a small one. There is in Finland no Swedish party, and the coterie called by that name is literary rather than political. Its members desire only to preserve the language and culture of Sweden—those in which they were educated—hating to submit to the prevalence of the Finnish or of the Russian language.

The press, in discussing the visit of the Swedish King, lay stress on the advantages which might arise to Russia and to England by coming into closer relations with the Scandinavian countries, and thus forming, as it were, a northern league, which might oppose itself to any possible encroachments of Germany.

I have, &c.,

EUGENE SCHUYLER.

No. 509.

Mr. Schuyler to Mr. Fish.

No. 137.]

LEGATION OF THE UNITED STATES,
St. Petersburg, July 20, 1875. (Received August 9.)

SIR: I have the honor to inform you that two United States vessels, the "Franklin" and the "Alaska," under the immediate command of Rear-Admiral Worden, have just paid a visit to this port.

Having received a telegram from Mr. Andrews, at Stockholm, announcing the intention of Admiral Worden to proceed to St. Petersburg, I informed Admiral Lessosky, the acting minister of marine, in a non-official letter, of the expected visit of the two ships, and when they arrived on the morning of the 13th they found places for their anchorage so fixed that they would be in the line during the naval review, and close to the flag-ship of the grand-admiral, the Grand Duke Constantine.

The next day (Wednesday) the admiral dined with the grand-duke Constantine on board his flag-ship.

On Thursday, the admiral having come to St. Petersburg, accompanied by Captains Carter and Franklin, I called with them upon Baron Jomini and Admiral Lessosky, and asked for a presentation to the Emperor of the admiral and the two captains. Late that evening I received a note from Admiral Lessosky, inviting all the officers of the squadron to be present at the military review at Krasnoe-Selo. Captains Franklin and Carter, attended by several of their officers, went, and were provided with places on the Imperial stand.

They were also invited to the lunch prepared for the guests and the suite of the Emperor. Those officers who were at Cronstadt were brought from their vessels by special steamer and then conveyed in carriages to

the place of the review. An invitation was also given them to dine that evening at the table of the Court at Peterhof. Admiral Worden and Captains Carter and Franklin were also invited the same evening to dine with the Grand-Duke Constantine, but were obliged to refuse from the impossibility of reaching Cronstadt in time.

Besides the naval officers, formal invitations to the review were given by the minister of war to General Crawford, General Reno, major in the Seventh Cavalry, and to my brother, Lieut. Walter Schuyler, of the Fifth Cavalry. My brother has also been invited to be present at the approaching maneuvers of the Russian army.

* * * * *

On Saturday, in honor of the King of Sweden, there was a review of the Russian fleet, in which the American and the Swedish vessels, as well as the English royal yacht "Osborne," and the American private yacht "Enchantress," belonging to Mr. J. F. Loubat, participated.

After visiting the Swedish flag-ship "Vanadis," the Emperor and the King of Sweden, attended by the Duke of Edinburgh and all the Russian grand-dukes, many of the diplomatic corps, and a numerous suite, as well as the Grand Duchess Cesarevna and several other ladies, came on board the "Franklin," where they remained some twenty minutes. After being received by Admiral Worden and the officers, the imperial party viewed the ship and descended into the admiral's cabin, where, at the Emperor's special request, the wife and daughters of Admiral Worden and the wife of Captain Franklin were presented to him.

On the arrival of the Emperor, for the first time during the review, the Imperial standard was raised on the "Franklin," and was saluted by the guns of all the vessels and forts.

On the 18th, Admiral Worden and Captains Carter and Franklin were invited to the fête at Peterhof given for the King of Sweden, and were there formally presented to His Majesty the Emperor.

Both ships left on the 20th for Copenhagen.

I cannot but feel pleased at the courtesies which have been extended to the American squadron, and at the politeness with which all our officers, both naval and military, have been treated.

I have, &c.,

EUGENE SCHUYLER.

No. 510.

Mr. Fish to Mr. Schuyler.

[Telegram.]

WASHINGTON, May 18, 1875.

SCHUYLER,

Chargé d'Affaires, St. Petersburg:

Attend the telegraphic convention and report results without committing this Government.

FISH, *Secretary.*

No. 511.

Mr. Fish to Mr. Schuyler.

No. 138.]

DEPARTMENT OF STATE,

Washington, May 18, 1875.

SIR: Mr. de Voigt, the chargé d'affaires of Russia here, has been very urgent for us to be represented at the proposed telegraphic congress at St. Petersburg. At first the invitation was declined on the ground that telegraphing in this country was done by private enterprise, which was not subject to the control of the Government. He then intimated a disposition to receive delegates from private companies. This was made known to the presidents of two of the most important. They long held it under consideration, but both ultimately declined to be represented on the occasion. Finally, Mr. de Voigt seemed, by his earnestness in regard to the matter, to be so entirely reflecting the wishes of his government, that it was determined to authorize you to be present at the convention. This was done by the telegram, a copy of which is subjoined.

* * * * *
I am, &c.,

HAMILTON FISH.

No. —.

Mr. Schuyler to Mr. Fish.

No. 140.]

LEGATION OF THE UNITED STATES,
St. Petersburg, July 23, 1875. (Received Sept. 7.)

SIR: Referring to your dispatch No. 138, instructing me to attend the international telegraphic conference held at St. Petersburg, and to my dispatches Nos. 119 and 134, I have the honor to inclose to you herewith my report on the conference, together with various documents relating thereto.

I have, &c.,

EUGENE SCHUYLER.

[Inclosure 1 in No. 140.]

Report of Mr. Schuyler on the international telegraphic conference.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 23, 1875.

SIR: The great success of the Austro-Germanic telegraphic union, and the need which existed for the remaining states of Europe to come to some agreement about the regulations concerning international telegraphic communication and the fixation of tariffs, led to a conference in Paris in 1865, which resulted in the conclusion of a telegraphic convention, signed by the diplomatic representatives of twenty European states. * * * Subsequent conferences, held in Vienna in 1868 and in Rome in 1871, modified in many respects the text of this convention, and drew up a series of rules and regulations on the basis therein expressed. At the conference at Rome the necessity was acknowledged of completely changing the convention and of rendering it more simple, so that the subsequent alterations in the regulations which might be required by the necessities of the time, and the rapid improvements in telegraphy, could be made without affecting the text of the international act. This, then, was set down as the main business of the conference appointed to be held at St. Petersburg in June, 1875.

Before proceeding to examine the work of the conference of St. Petersburg, I may state that, by the adhesion of Luxembourg, which was not represented in the con-

ference at Rome, all the European states have become members of the union. Several of the great telegraphic cable companies have also joined it.

Among the acts of the conference at Rome was a resolution expressing a wish that the different governments should endeavor to put into execution means favorable to a semaphoric system, so that messages might be sent from ships at sea. The Italian minister of foreign affairs immediately communicated this desire of the conference to the Italian representatives abroad, charging them to ascertain the opinions of the different governments as to whether a rule could not be made ordering all commercial vessels to have on board a copy of the commercial code of signals and a complete collection of flags and other necessary signals for semaphoric correspondence. Such a regulation had been enforced on the Italian ships. Since that time replies have been received from seven governments. One of these states that it is opposed to the proposition; the other six are favorable, under certain reservations.

At the conference at Rome propositions were also made by Mr. Cyrus W. Field * for the protection, during both war and peace, of telegraphic cables as well as of land wires. There was some objection made by the delegates to declaring their opinions on this subject, on the ground that the conference, having charge only of the regulations for the transmission of messages, could not consider a subject at all to do with international law. Finally, however, an agreement was come to by which the conference expressed an opinion that "the propositions of Mr. Field merited the attention of governments." The Italian government thereupon issued a circular to its diplomatic representatives, communicating to them this resolution of the conference. As this was a question to which the Government of the United States had shortly before invited the attention of the different cabinets, the Italian minister of foreign affairs, in his circular of the 31st July, 1872, merely instructed the Italian representative to bring the resolution of the conference to the knowledge of the governments to which they were accredited, without accompanying it with any proposition. At first this communication was taken into consideration only by the government of Austria-Hungary, and on the 19th of January, 1874, the Vienna minister of foreign affairs sent to the Italian government a note, in which the propositions of Mr. Field were examined in their details, with a request to acquaint the other governments with the views of the Austro-Hungarian cabinet. The Italian government immediately communicated the Austro-Hungarian note to the governments interested. Eight of them have replied to this communication; some in general, accepting the ideas of the Austro-Hungarian cabinet, others referring to the observations they had made at the time of the action of the Government of the United States. One government has reserved its communications, and another has declared that for the present it does not wish to begin a discussion on the subject. The Italian government now considers that its duty has been done in the matter, although the replies of some great maritime powers are still lacking. As until the next conference the diplomatic direction of the common affairs of the telegraphic union now devolves upon the Russian government, the Italian cabinet is ready to communicate to it, at any time, all the documents relating to this question.

Neither the proposition relating to semaphores, nor that with regard to the protection of telegraphic lines, was considered by the St. Petersburg conference. The delegates seemed to think that for the better fulfillment of their duties it was necessary for them entirely to abstain from any discussion which had relation to international law. This view was in a measure a correct one. At the same time, the discussion of improvements in telegraphy falls rather upon the conference than upon any other body, or upon any single government; and if proposals like these, or for the freedom of telegraphic communications from government inspection, or for the universal permission for cipher-messages, are ever to be considered and passed, this will be accomplished much more quickly if the conferences in their sessions declare their positive opinions on the subject, and recommend to the respective governments the adoption of such measures.

In accordance with the invitation, the conference met at St. Petersburg on the 1st of June, in the house of the minister of the interior. It was composed of delegates from Austria-Hungary, Belgium, Denmark, Egypt, France, Great Britain, Germany, Greece, Italy, Japan, Norway, Persia, Portugal, Russia, Sweden, Switzerland, Spain, Turkey, and the United States, and also of the representatives of the Anglo-American Telegraph Company, the Brazilian Submarine Company, the Black Sea Telegraph Company, the Eastern Extension Telegraph Company, the Great Northern Telegraph Company, and the Vereinigte Deutsche Telegraphen Gesellschaft. The American telegraph companies all refused to be represented. There were also present, as adjoint members, Mr. Engelhardt, delegate from the Russian minister of foreign affairs, and the director and secretary of the international bureau of telegraphic administrations situated at Berne. The conference was opened by General Timascheff, the minister of the interior, who soon yielded the place to Mr. De Liders, the director-general of the Russian telegraph department and the regular president of the conference. The conference held twenty sessions, during which it elaborated the new draught of the inter-

national telegraphic convention, which was subsequently signed by the diplomatic representatives of the various powers at St. Petersburg, and the regulations for the international service. * * * *

Finally, on the 19th of July, the conference adjourned to meet at London in 1878.

In addition to the general sessions of the conference, there were constant meetings of the committees, at which everything brought before the conference was fully discussed. Whatever intervals of leisure the members had, were taken up with visiting the various public buildings and objects of interest in St. Petersburg, for the Russian government exercised the hospitality which it knows so well how to show on occasions of this kind. The members of the conference were presented at the opening to the hereditary Grand Duke Césarevitch, with whom they had the honor of dining, and at the close they were presented to His Majesty the Emperor. Besides this, the palace and grounds of the Duke and Duchess of Mecklenburg were thrown open to them on two evenings in a week, and the members were taken on various excursions, including a short one to the falls of Imatra, and another one of several day's duration to Moscow.

I inclose to you herewith, in a printed form, the official reports of the discussions of the conference, marked 4; and, in briefly reviewing its labors, I would add that it seemed to me as though—from the fact of the delegates being nearly all officials in the telegraphic administrations—fiscal motives unduly predominated in the discussions, and that there was even too great a tendency toward conservatism. The interests of the public who use the telegraph seemed to be entirely subordinated to the interests of the state and to the convenience of the administrations; that is, to a fear lest any improvement might produce less revenue than is got at present, and lest it might throw more work on the telegraphic bureau.

The convention has been drawn up in such a form as to avoid the necessity of future revisions, and the regulations have received a simpler, clearer, and more practical character. The chief improvements in detail are a provision against an abuse which had arisen in some languages by limiting the length of the single word; the introduction of urgent and of registered dispatches; the experimental introduction of telegraphic notices; the tariff by single word for the extra European service, and the adoption of two uniform rates, according to route, for the correspondence of Europe with India. Among the improvements which were not adopted by the conference, although strongly supported, were those of putting the receipts of international messages into a common treasury, and then distributing them in proper proportions to the different states, which would avoid a complicated system of terminal and transit rates, the calculation of transit rates according to the distance over which the message is actually sent, and the reduction of the number of words in a message. Under the previous system of counting words, it was much cheaper to telegraph in certain languages, such as the German, than in others, owing to the extreme license given to the formation of compound words. By this means a paragraph could at times be condensed into a sentence. All tongues have now been placed nearly on a footing of equality by section XXI of the regulations, which allows only fifteen letters to be counted as a single word in Europe, and only ten letters in the extra-European correspondence. Some objections were made to this rule, on the ground that it was much easier to count by syllables than by letters, but as the cases where a word would contain fifteen letters would be very rare, it was thought that this arrangement would give very little trouble either to the sender or to the telegraph operator. As to numbers written in figures, or words written in cipher, every five characters constitute one word.

The conference made no effort to obtain permission for the use of cipher in private dispatches, but it was apparent from the debates that the first paragraph of section VI of the regulations was intended to allow the use of conventional language, or of words taken from any or all of the languages used in the countries signing the convention. Thus it would be admissible to have one word of a telegram in German, a second in Hungarian, a third in Finnish, a fourth in Russian, and so on.

By section VIII, the address can be written in a conventional or in an abridged form, as is now common at London and Paris, and at some other stations, and the signature can be written in the same form, or entirely omitted.

In order to provide greater safety in the delivery of telegrams in exceptional cases, a system of registered or recommended messages, similar to that of registered letters, was introduced by section LI of the regulations, although it was not rendered obligatory on all administrations. The sender of a registered telegram has the right to have it repeated and compared, and can also claim a notice of its receipt. In case of mistakes or of its non-delivery, the cost of the telegram and fifty francs in addition will be refunded. The price of such a telegram is triple that of ordinary ones. In the same way the system of urgent telegrams was adopted, also optional for the various administrations by paying triple the tax. A telegram marked *urgent* will be sent before any other telegrams not so marked. Much objection was made to this proposal by various members of the conference, on the ground that all sections of the public should fare alike. It was shown, however, that in Belgium, where the system of urgent telegrams has been in use for some years, it was found that their proportion

was hardly one per cent.; so that no great inconvenience would arise to the public from their introduction. At the same time, the telegraph is so much now used by persons who desire either to gain a little on the time taken by the post, or to spare themselves the trouble of writing a letter, that it is of the greatest value to be able to send a message more quickly than by the ordinary method, and in some cases it is a matter of prime necessity. As the power of sending such a telegram is given to the whole public on payment of the price demanded, it is seen that this is no special privilege for the benefit of a select few. This reasoning had weight with the conference, but it was very probable that even then the system of urgent telegrams would not have been accepted had there not been combined with it the registered telegrams and system of telegraphic notices as provided in section XLIII, which may be well compared to the system of postal cards now in vogue. In this way a message may be sent without the formalities by which ordinary telegrams are surrounded, and can be given open to the receiver. The administrations are not bound to give receipts or to preserve in the archives the document relative to such telegraphic notices. At present, they are to be admitted only in European relations. A telegram of this sort is limited to ten words, and it cannot be expressed either in cipher or in conventional language. The price is at present put at three-fifths of that of an ordinary telegram of twenty words. Considering the extent to which the telegraph is now used for messages of very slight importance, it is possible that the system of telegraphic notices has a great future before it. It will also go in some measure to repair the omission of the convenience of reducing the number of words in an ordinary message.

A great effort was made to change the ordinary message from twenty to ten words, and a proposition was made by Germany, which was supported by all the private companies, to calculate the tariff for telegraphic messages per single word. Both of these propositions, however, were voted down, and, apparently through a misunderstanding of the delegates, the minimum message of twenty words was retained. The calculation of messages by the single word was, however, admitted for the extra-European service on the urgent demand of the companies and of the Indian government. Another refusal of the conference to alter the existing regulations, although about a minor matter, was with regard to answers paid. According to the present new regulations, section XLV, the sender, in case of prepaying the answer, must place before the address the words "answer paid," or the sign "R. P." As the money for the answer is paid to the administration, which is, therefore, in a certain sense, responsible for it, it would seem that the indication "answer paid" might well be one of the gratuitous notices given to the receiver in the same way as that of the time at which the message was sent.

In order to facilitate the keeping of accounts, the delegation of Austria-Hungary proposed the system of a common treasury, which should receive all the money paid for international telegrams, and repay to each government the proportion due to them for the messages sent and received. Of course, most of the transactions would be merely on paper, to be settled at the expiration of certain specified periods. The Central International Bureau at Berne was to be charged with the system of accounting. This is a system that has worked very well in the Austro-German postal union; but objections were made to it, partly on the ground that it might not be well to bring about too close a union of the states, and partly because the proposition had not yet been sufficiently studied by the various delegates. It will probably be revived at the London meeting, and in the mean time the Central Bureau will carry on fictitious accounts on the basis of the actual receipts for telegrams in order to show the effect of the system in practice.

The estimation of the rates to be charged for a telegram which passes through several countries, is always a matter of great difficulty, and an agreement is only obtained by means of numerous concessions. At every meeting of the conference new rivalries and pretensions arise, as there has been as yet no settled basis on which the rates are calculated. To remove all these difficulties, the German delegation proposed a system by which the price of a telegram going through more than two countries should be divided into two parts, the terminal taxes and those of transit. For the terminal taxes, small countries were to receive the minimum of five centimes a word, or a franc per message of twenty words, and larger countries double that sum, while Russia, from its exceptional position, might demand even more. The transit taxes were to be calculated according to the distance, as estimated by the nearest route, at the rate of from twenty to thirty centimes per message for each hundred kilometers. Should there be several lines of an approximately equal length, messages were to be sent over those lines in equal proportions, and if the country of origin should choose to send a message by a roundabout way, it should have the privilege of doing so on deducting the additional cost from the terminal taxes coming to that country. This proposition originated with Mr. Stephan, the minister of posts and telegraphs for the German Empire, and would seem to contain the only logical basis for the calculation of telegraph-taxes. Great opposition, however, was made to the measure, both in committee and in the general meetings of the conference, on the ground that it was

too great a revolution of the present system to be undertaken without more extended study. It was naturally opposed by several of the cable companies, which, as, for instance, the one owning the cable between England, Denmark, and St. Petersburg, would be cut off from a great source of revenue by the lowering of the tariff on the direct lines, and might ultimately be ruined. At the same time among the governmental delegates there was the feeling, though not openly expressed in the conference in so many words, that it would be unsafe to make this change, as for many reasons it was undesirable to have all messages from the east and the west, or the north and the south, of Europe sent through Germany, and exposed to the inspection and possible indiscretion of German officials. Both Russia and France were desirous of retaining some way of communication which did not pass through Berlin.

In accordance with your instructions, I took no other part in the conference than simply to attend its meetings; and, in reporting to you its results, I have nothing to add except the hope that at the next session the American companies may be willing to take part, for it is for the convenience of the public that messages everywhere should be subject to the same regulations and be sent at fixed rates. The experience of Europe, too, might be of advantage in enabling them to give additional facilities and safeguards to the public.

I was many times asked in conversation whether it was probable that the Government of the United States would take into its own hands the administration of the telegraphs. To this I could only reply that the subject had been several times brought to the attention of Congress, and had been there considered, but that it was impossible for me to predict the result of any bills which might be in future brought into Congress. I could not help adding that, at the same time, under our present system, the public was provided with many safeguards, such as the general or partial right of being re-imbursed for damages consequent upon the failure to deliver telegrams in a correct state, or on their non-delivery, which it would be loth to lose, as it would do by being placed under rules similar to those now in force in European administrations; and that the system of government inspection of private telegrams is one which would be exceedingly odious to the American people.

I have the honor to be, sir, with great respect, your most obedient servant.

EUGENE SCHUYLER.

Hon. HAMILTON FISH,
Secretary of State.

No. 513.

Mr. Boker to Mr. Fish.

No. 7.]

LEGATION OF THE UNITED STATES,
St. Petersburg, August 5, 1875. (Received August 23.)

SIR: I have the honor to inclose to you a copy and a translation of a note received from the imperial foreign office on the subject of a meeting of the permanent commission of the statistical congress.

At the request of the government of Hungary, on account of the elections in that country, the meeting of the statistical congress, which should have taken place in Pesth this year, has been postponed till 1876.

It has therefore been thought advisable to call an extra meeting of the permanent commission for the purpose of preparing the work for the next session of the congress.

As a considerable number of the members of this commission were in Paris attending the congress of the geographical sciences, with the consent of the French government this extra meeting of the permanent commission on statistics has been fixed for the 11th of August at Paris.

It would be desirable, of course, that all the members of the commission should be present; but as, owing to the lateness of this announcement, it would be impossible for Mr. Young, who, I believe, is the American member of the commission, to reach Paris in time, I have thought it useless to telegraph to you on the subject.

I am, &c.,

GEO. H. BOKER.

[Inclosure in No. 7.—Translation.]

Baron Jomini to Mr. Boker.

No. 6002.]

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERIOR RELATIONS,
St. Petersburg, July 23, (August 3,) 1875.

MR. MINISTER: The French embassy has just informed the ministry of foreign affairs that the meeting of the statistical congress, which was to take place at Pesth, in 1875, is postponed till 1876, and that consequently Mr. Semenow, the director of the Russian statistical committee, and president of the permanent statistical commission, has proposed to take the opportunity offered by the session of the congress of geographical sciences to call a meeting at Paris of the permanent commission, which held its sitting last year at Stockholm.

The French government having agreed to this proposition, the meeting of the permanent commission will take place on the 11th of August of the present year, immediately after the closing of that of the congress of geographical sciences, which will be opened on the 1st of August next, and will last ten days.

Mr. Semenow has been informed of this by telegraph, in order that he may be able to call together the delegates of the different states in good time.

In bringing the preceding to your knowledge, Mr. Minister, I have the honor to beg you to be good enough to notify the Government of the United States of America of the same, and to ask them to make their necessary dispositions on the subject.

Accept, Mr. Minister, the assurance of my most distinguished consideration.

BARON JOMINI.

MR. BOKER, &c., &c.

No. 514.

Mr. Boker to Mr. Fish.

No. 10.]

LEGATION OF THE UNITED STATES,
St. Petersburg, August 19, 1875. (Received Sept. 7, 1875.)

SIR: Referring to Mr. Schuyler's dispatch, No. 110, of the 3d of May last, on the subject of the act of Congress of March 3, 1875,* relative to immigration, I have the honor to inclose to you a copy and translation of a note from Baron Jomini, in reply to one addressed to Mr. Strémooakhof by Mr. Schuyler, a copy of which was inclosed in his dispatch.

I have also the honor to inform you that a notice was published in the official newspapers, bringing the provisions of the act of Congress to the knowledge of the public.

I am, &c.,

GEO. H. BOKER.

[Inclosure in No. 10.—Translation.]

Baron Jomini to Mr. Boker.

No. 6298.]

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERNAL RELATIONS,
St. Petersburg, August 2, (14,) 1875.

MR. MINISTER: On receipt of the note from the legation of the United States of America, dated April 21 (May 3) last, and numbered 110, the ministry of foreign affairs did not fail to communicate the subject of its contents to the proper authorities.

I have the honor to inform you to-day, according to recent communications on the

* See Statutes at Large, vol. 18, part 2, page 477.

part of the ministry of the interior and of the secretarial department of the grand duchy of Finland, that the new law prohibiting the entrance into the United States of America of certain classes of society, has been brought to the knowledge of the public by means of the official journals of the empire and of the grand duchy of Finland.

Accept, Mr. Minister, the assurance of my most distinguished consideration.

A. JOMINI.

No. 515.

Mr. Voigt to Mr. Fish.

[Translation.]

LEGATION OF RUSSIA,

Washington, June 24, 1874. (Received June 25, 1874.)

MR. SECRETARY OF STATE: As the next international telegraphic conference is to meet at St. Petersburg in the course of the year 1875, the imperial ministry of foreign affairs has just instructed me to address the Government of the United States in relation thereto.

At the last telegraphic conference, which was held at Rome, in 1871, two questions, among others, were raised, which are to be solved by the conference at St. Petersburg.

The *first question* relates to the necessity, which was unanimously acknowledged by all the members of the conference, of amending the convention and the regulations in such a way as to introduce into the regulations certain provisions which are now in the *convention* but which may be liable to modification. The International Telegraphic Bureau was instructed by the conference at Rome to prepare a draft for the amendment of the convention and of the regulations, so that they might be communicated to all the administrations about a year before the next conference.

The International Telegraphic Bureau having transmitted the draught of a convention prepared by it to the telegraphic administration of the empire, I have the honor herewith to transmit to you, Mr. Secretary of State, a copy of this draft, which is intended for the Federal Government.

At the same time, by order of the imperial ministry, I have to inform you that the government of Russia is of opinion that it would be preferable to confide to the next conference the discussion of the observations to which the draft prepared by the bureau may give rise, for the reason that the previous communication of the observations of each of the administrations might cause too extended a correspondence.

The imperial government thinks, moreover, in view of the modifications which the convention signed at Paris by the plenipotentiaries of the adhering states underwent at the conference of Vienna and at that of Rome, and in view of the still greater modifications which are to be introduced by the new draft, that this international instrument should be replaced by a new one of the same character, the latter to be signed, as was that of Paris, by special plenipotentiaries. As to this view, I have the honor to beg you, Mr. Secretary of State, to inform me whether it is shared by the Government of the United States.

The *second question* raised by the conference at Rome relates to the division of the votes at administrative conferences. Should each state,

or each of the distinct administrations, even when there are several of the latter in the same state, be entitled to a separate vote?

The International Telegraphic Bureau having addressed the administrations of the different states, for the purpose of making inquiry as to their opinions, almost all of the administrations have expressed the opinion that it would be advisable to profit by the information and the special data which each of the various administrations may be able to furnish at the conference, and that each of these administrations is, moreover, the sole judge of the measures which may be adapted to it. The imperial government is disposed to accept these principles. The result of this would be that each of the telegraphic administrations acting independently, would be entitled to a voice in the deliberations of *administrative* conferences, with the proviso that, in cases where different administrations, belonging to the same government, were concerned, each of these administrations should be specially represented, and that the communication relative to the persons selected as such representatives should be sent, diplomatically, to the government in whose country the conference should meet, previously to the opening of its sessions.

In consequence of the foregoing, I have the honor to beg you, Mr. Secretary of State, to be pleased to communicate to me the views of the Government of the United States in relation to this matter.

Be pleased to accept, &c.,

VOIGT.

No. 516.

Mr. Fish to Mr. Voigt.

DEPARTMENT OF STATE,

Washington, May 18, 1875.

SIR: With reference to the correspondence which has taken place between this Department and the Legation of Russia on the subject of the telegraphic convention which is to meet in St. Petersburg next month, I have the pleasure to inform you that the President has authorized Mr. Schuyler to appear on that occasion. That gentleman has this day been informed by cable of his appointment, and similar information will be forwarded by the post of to-morrow.

Accept, &c.,

HAMILTON FISH.

SPAIN.

No. 517.

Mr. Cushing to Mr. Fish.

No. 142.]

LEGATION OF THE UNITED STATES,

Madrid, November 4, 1874. (Received November 27.)

SIR: I have not, thus far, written to you anything on the subject of emancipation in Cuba. There is, indeed, little to say, and that little chiefly of a negative character.

The triumvirate, who dethroned Queen Isabel, and in the act acceded to the possession of supreme power in Spain, and their principal adherents, had been pronounced advocates of radical reforms in the political and social condition of Cuba.

In the "Collection of reports, memoirs, plans, and antecedents touching the government of the island of Cuba," published in 1873-74 by order of the Spanish government, a copy of which was transmitted to the Department by Mr. Adee soon after its publication, (see my No. 82,) you will find the recommendations of General Serrano on the subject, suggesting reforms which, if seasonably adopted, might have prevented the calamities which have since fallen upon Cuba. He repeated these views in the senate.

General Prim, we know, went further still, even to the point of thinking seriously of conceding independence to Cuba. Indeed, his assassination, which still remains unpunished, was due, there is too much reason to believe, to the enmities excited by the liberality of his views concerning Cuba.

The government of King Amadeo, it is certain, decidedly favored emancipation in Cuba; and the belief is very general here that the same mæfic interests which produced the premature death of Prim also brought about the conflict between King Amadeo and his ministers, and his consequent abdication.

The republicans, who succeeded to power and held it for ten months, had made zealous profession, while in opposition, of emancipation opinions and purposes, and the most conspicuous among them had been members of the Emancipation Society of Madrid; but they wanted courage or firmness to attempt anything in that direction when the power was in their hands.

The contradiction between their previous professions and their actual performance in this respect is set forth in detail, and with great positiveness, in the excellent work of D. Rafael de la Labra, to which allusion is made in my No. 83,* and which I shall have occasion to speak of more particularly at an early day, in a contemplated dispatch on the subject of Puerto Rico.

Remains the question of the attitude of the present government, with the same General Serrano of its head, which may be described as an attitude of good intentions, with absolute impossibility of practical action.

In order to understand this point, it has been my aim to confer fully with the most undoubted and characterized persons of emancipation opinions to be found in Madrid. This I have done.

These persons assure me that at the present moment they think all attempts at action, or even agitation, would not only be vain but prejudicial even. The government, they say, is powerless in this respect, in view of what may be considered the double rebellion in Cuba, that of the creoles in the eastern department and that of the Peninsulars in the western; and they say, further, that it would require a larger army from Spain to enforce the submission of the latter than of the former.

In this view it is that the Emancipation Society itself is at the present time quiescent and silent, awaiting the arrival of some change in political circumstances which may enable it to resume its public labors and manifestations.

In these circumstances it is difficult to see how anything in this relation can be usefully done by the minister of the United States.

* See Foreign Relations for 1874, p. 907.

If, indeed, the only serious question now pending between the two governments were satisfactorily disposed of, either by arbitration or otherwise, we might do much in Spain, not only to forward our own interests, but in the general cause of humanity and public freedom. The conflicting jealousies of European Powers at Madrid would leave a noble part for us to play if our hands were unincumbered.

* * * * *

I have, &c.,

C. CUSHING.

No. 518.

Mr. Cushing to Mr. Fish.

No. 190.]

LEGATION OF THE UNITED STATES,
Madrid, December 17, 1874. (Received January 26, 1875.)

SIR: I have noted from time to time, for the purpose of communicating them to you, several incidents bearing on the subject of neutral rights and obligations, which I proceed briefly now to submit:

1. So soon as the great European powers, acting under the impulsion, or at any rate in sequence of the initiation, of Germany, had concluded to enter upon official diplomatic relations with General Serrano's government, Spain anticipated their action in some instances by at once sending ministers to several of them, and among the rest to France. The minister selected for France was a man of rank of considerable political importance, the Marques de la Vega de Armijo, appointed in the grade of ambassador. Almost immediately on his arrival in Paris, he addressed the minister of foreign affairs, setting forth, in much detail, alleged violations of neutrality on the part of France, in furnishing, or in allowing to be furnished, assistance in various forms to the insurgent Carlists. This dispatch was so grave in its character, and so positive in its tone, as to have led to the rumor that it was delivered at the instance, and with the implied backing, of Germany. It is noticeable, at any rate, that its contents first became known in detail by means of publication in one of the semi-official journals of Berlin. Copious extracts from the document have also been published in the newspapers of Paris and London. I have endeavored to obtain a copy of this document for transmission to you, but have not succeeded in doing so. But I derive from the discussions in various public journals, and in other ways, a pretty distinct idea of the main points of this dispatch. These points are the following, namely:

(a.) Complaint that the French government has allowed supplies of arms, munitions of war, and equipments to be collected in France and passed across the line into the frontier Spanish provinces of Navarre and Guipuzcoa.

(b.) That the French government has allowed men, both Spaniards and foreigners, to be enlisted or collected in the south of France, for employment in the military service of the rebel Carlists.

(c.) That the French government has suffered Carlist juntas or committees to act publicly as such in the south of France, especially at Bayonne and Pau.

(d.) That the prefect of the department of the Lower Pyrenees, the Marquis de Nadaillac, has been encouraged or allowed to protect or favor the continuation of Carlist manifestations, intrigues, and con-

spiracies on the part of rebel Spanish agents of the Carlists, within this department. The French government has, in effect, admitted all these charges by taking efficient steps to put a stop to each of the things complained of, not only checking the transit of military supplies and of officers or soldiers, but compelling the Carlist conspirators at Pau and Bayonne to leave that part of France and pass beyond Loire. And, although Mr. de Nadaillac has not yet been superseded, yet he has been ordered to Paris, and so practically separated from official duty in his department. Meanwhile, the Duc Decazes has recently, after a long delay of months, responded to the Marques de la Vega de Armijo in a memorandum, which is said to be highly satisfactory to the Spanish government. The important issue in this controversy, and the question most debated, is whether or not it be a breach of neutrality for one government to suffer its territory to be made the seat of political conspiracy on the part of the rebels of another government, such rebels not possessing the rights of recognized belligerence, and the two governments being associated by treaties of amity. The acquiescence of the French government in the premises asserted by the Spanish government in this respect appears to me to constitute an important incident in the history of the international relations of the great powers of Europe.

2. Much has been said here, from time to time, on the subject of communications addressed to the cabinet of St. James by Mr. Comyn, minister of Spain in Great Britain, remonstrating against expeditions fitted out in the ports of that country for the service of the Carlists. It would seem that all these expeditions were for the supply of arms and munitions of war, without possessing especially military, but rather a commercial character. I am not aware what reception has been accorded to these communications of Mr. Comyn on the part of the British government.

3. As to another point, that is, the relation of the British government to Cuban *laborantes* in the West Indies, my information is more complete.

I learn, in the first place, on good authority, that, in relation to this matter, the British government has given "satisfactory assurances" to the Spanish government. My information goes no further than the general statement; but, thus far, it is confirmed by particular facts reported here with appearance of authenticity. It is stated that the active agents of the insurrection in Cuba have transferred the theater of their operations from the United States to the British islands of Jamaica and the Bahamas, and on two recent occasions the governor of Jamaica has interposed to put a stop by force to meetings of political agitation on the part of Cubans, in one of which meetings figured conspicuously the so-called General Quesada. * * * *

I have, &c.,

C. CUSHING.

No. 519.

Mr. Cushing to Mr. Fish.

No. 207.]

LEGATION OF THE UNITED STATES,
Madrid, January 4, 1875. (Received February 3.)

SIR: The counter-revolution which has just occurred in Spain is in itself one of the most interesting and singular events of our time,

and may exercise important influence over the relations between that country and the United States. You will naturally, therefore, desire to receive a circumstantial account of this occurrence.

On Tuesday, the 29th of December, information arrived at Madrid that a detachment of the army of the center, which for some months past had been actively employed in combating the Carlists in the province of Valencia, under the command of Brigadier Daban, had, on that day, at the incitation of General Martinez de Campos, pronounced at Sagunto in favor of Don Alfonso de Borbon, the son of Queen Isabel.

At this time the military and political situation was as follows:

The government of General Serrano was administering affairs as usual in apparent tranquillity and security, no event of political importance in that respect having occurred since my last dispatch on that general subject, although the war against the Carlists had been going on with various fortunes, but without any definite results of magnitude.

Meanwhile, however, General Serrano had taken the field in person as commander-in-chief of the army of the north. Various rumors had accompanied his departure from Madrid, some persons accepting as true his avowed purpose, that of subduing the insurrection by extensive military operations; others suggesting that he contemplated arrangement with the Carlists, and others again attributing to him a plan for the re-establishment of liberal monarchy in the person of Don Alfonso.

Two weeks after his departure, some little attention had been attracted to the fact that several of the leading Alfonsinos, including Mr. Cánovas del Castillo, had been arrested and imprisoned in the Carcel de Villa, and that the newspapers of the same party had been suspended, to wit: "*El Tiempo*," "*La Epoca*," "*La España Católica*," "*El Eco de España*," and "*El Diario Español*;" but incidents of this nature had occurred too frequently since the downfall of King Amadeo to make a very deep impression on the public mind.

On the morning of Wednesday, the 30th, however, appeared in the official "*Gaceta de Madrid*" a proclamation, signed by all the ministers, denouncing, as an act of rebellion, the pronunciamiento of some forces of the army of the center, headed by Generals Martinez de Campos and Jovellar, the latter formerly captain-general of Cuba, and at this time commander-in-chief of the army of the center. (See translation of this document.)

The knowledge that General Jovellar had joined the movement satisfied everybody of its seriousness, and led to the belief that it had ramifications in other corps of the army.

In fact, it soon became known that General Primo de Rivera, the captain-general of the province of Madrid, if not prepared to join the movement, was hesitating certainly, and, as it was supposed, waiting to hear from General Serrano and the army of the north. The government, presided by Mr. Sagasta, had now become aware of the gravity of the situation. The minister of war, General Serrano Bedoya, proceeded to visit the various quarters of the garrison of Madrid, containing troops to the number of about 15,000 men, and found that, while these troops were disposed to remain passive, and would not produce any disorder, yet they decidedly sympathized with the movement at Sagunto, and would not fight against the supporters of Don Alfonso. Thus the position of the government became untenable, the more so when it became ascertained, as it did toward night, that the great body of the army of the north sympathized also in the movement for Don Alfonso so positively as to induce General Serrano himself to advise acquiescence on

the part of his ministers, in consequence of which they resigned their portfolios into the hands of Captain-General Primo de Rivera. And thus the government of General Serrano fell with a feeble protest on the part of Mr. Sagasta, but without even a struggle for existence.

There is reason to think that the action of General Martinez de Campos was founded on previous consultation among officers of the army, of whom the Conde de Valmaseda is particularly mentioned.

Meanwhile the streets of Madrid were crowded with groups of persons manifesting interest and curiosity, but not committing the slightest act of disturbance in any quarter.

Late at night an extra of "*El Tiempo*" appeared, giving the first detailed account of these incidents published in Madrid.

On the next morning, that of Thursday the 31st, appeared in the official "*Gaceta de Madrid*" announcement of the establishment of a new government, as follows:

Antonio Cánovas del Castillo, president of the regency-ministry.

Alejandro Castro, minister of state.

Francisco de Cárdenas, minister of grace and justice.

Lieutenant General Joaquin Jovellar, minister of war.

Petro Salaverría, minister of hacienda.

Mariano Roca de Togores, Marqués de Molins, minister of marine.

Francisco Romero Robledo, minister of gobernacion.

Manuel de Orovio, Marqués de Orovio, minister of fomento.

Adelardo Lopez de Ayala, minister of ultramar.

This government has continued to administer affairs with apparent acceptance, or unopposed submission at least, to the present time.

At first, it is true, especially in the course of Wednesday, much solicitude prevailed in apprehension of acts of violence.

* * * * *

But nothing occurred to disturb the peace of the city that night or at any time thereafter. It is true that Captain-General Primo de Rivera, together with the Duque de Sexto, the new civil governor, and the Conde de Toreno, the new chief alcalde of the city, adopted the most complete precautions for the preservation of public peace; but, indeed, there has been no exhibition of disposition on the part of anybody, high or low, to disturb that peace.

On the other hand, manifestations of rejoicing, more or less spontaneous, appeared in all parts of the city for two or three days, in hangings from the balconies of the houses and in illumination of most of the windows

There were also parade and review of the troops of the garrison of Madrid on the afternoon of Friday, in the presence of the captain-general, by whom they were addressed, and who in reponse acclaimed Don Alfonso XII. An immense concourse of spectators witnessed the scene, conspicuous among whom were many of the ladies of Madrid.

The late ministers, including Mr. Sagasta, the republicans, such as Mr. Figueras and Mr. Castelar, and the radicals, such as Mr. Ruiz Zorrilla, all go about as usual in the consciousness of perfect personal security.

The only persons who seem to suffer are the office-holders and the newspapers. The former are resigning or being removed in considerable numbers, although many of them have been requested to remain. As to the latter, it has been edifying to see that, on the very day after the suppression of so many organs of the Alfonsinos, they were restored to life again, simultaneously with the suppression of all the republican and some of the Serranist journals. * * *

So little of the spirit of persecution is manifested by the triumphant Alfonsinos, that the Duque de la Torre himself, although, a ter resigning the command of the army of the north into the hands of General La Serna, he proceeded to France by way of Canfranc, yet seems to have done this, not so much from personal apprehension, as in order to avoid being the cause or pretext of opposition or even of suspicion; and it is understood that he is about to return to Madrid to live in retirement with his family, the Duquesa herself having already left the British legation to occupy a private residence in the Paseo de Recoletos. It is understood that Don Alfonso will leave Paris shortly for Marseilles, where he will find a squadron to conduct him first to Barcelona and then to Valencia, at each of which places he will remain long enough to be presented to the troops; that he will then come to Madrid to be crowned, and take the oath in force in the time of Queen Isabel; that he will then proceed to the Escorial, and from the Escorial to put himself at the head of the army of the north. A deputation of important persons, among whom are the Marqués de Molins, to represent the ministers; the Conde de Heredia Spinola, the nobility; Mr. Escobar, (of La Epoca,) the press, and the Conde de Valmaseda, the army, started yesterday for Marseilles, in order there to receive Don Alfonso and conduct him to Spain.

* * * * *

I annex also the important manifesto lately published in the name of Don Alfonso, setting forth the principles which are professedly to preside over his government of Spain.

I abstain at present from any further comment on the subject, except to say that the new government exhibits more signs of vitality than any other which has existed in Spain since the downfall of Queen Isabel, it having in its favor the entire military force of the country, the great body of the proprietors, titled and untitled, a large proportion of the suffering clergy, and the majority of the people, who are, for the time being, thoroughly sick of revolutionary experiments, and are anxious only for the enjoyment of peace and public order, which they have not had for a moment since the battle of Alcolea, which substituted the military triumvirate of Serrano, Prim, and Topete in the place of the constitutional monarchy of Queen Isabel.

I have, &c.,

C. CUSHING.

[Inclosure 1 in No. 207.—Translation.]

Proclamation of the cabinet of General Serrano denouncing the movement in favor of Prince Alfonso, December 30, 1874.

EXECUTIVE POWER OF THE REPUBLIC,
PRESIDENCY OF THE COUNCIL OF MINISTERS.

At the very moment when the chief of the state was moving the army of the north to give decisive battle against the Carlist hosts, thus making use of the immense sacrifices which the government has exacted of the country, and which the latter has given with such noble patriotism, a small force of the army of the center, led by Generals Martinez, Campos, and Jovellar, have raised, in sight of the enemy, the seditious banner of D. Alfonso de Borbon. This act, which words fail to condemn and which seeks to initiate a fresh civil war, as though the calamities of every kind which burden the country were not already enough, has, fortunately, found no echo in the armies of the north and of Catalonia, or in any of the several military districts. The government, which has appealed, in the supreme circumstances in which the nation now is in the peninsula and in America, to all parties which bear the name of liberal to stifle in a common effort the aspirations of absolutism, holds an unquestionable right and even a sacred duty to qualify harshly and to chastise, with all rigor within its sphere, a

rebellion which, in fine, it could not favor, if it spread, any more than it could favor Carlism and demagogy, dishonoring us besides in the eyes of the civilized world. The ministry, faithful to its purposes and loyal to the solemn pledges it has given before the country and before Europe, is to-day more than ever resolved to fulfill its duty and will fulfill it.

MADRID, *December 30, 1874.*

The president of the council of ministers and minister of gobernacion,
 PRÁXEDES MATEO SAGASTA.
(Signed by all the other ministers.)

[Inclosure 3 in No. 207.—Translation.]

ANNOUNCEMENT OF THE REGENCY MINISTRY.

[From the "*Gaceta de Madrid*," December 31, 1874.]

DECREE.

Proclaimed by the nation and the army, the King Don Alfonso de Borbon y Borbon, the case has arrived for the use of the powers which, by royal decree of the 22d of August, 1873, were conferred upon me. In virtue thereof, and in the name of His Majesty the King, I hereby decree as follows:

The regency-ministry, which is to govern the kingdom until the arrival of the King Don Alfonso in Madrid, shall be composed, under my presidency, of the following persons: Minister of state, Don Alejandro Castro, formerly minister of the treasury and the colonies and ambassador in Rome; minister of grace and justice, Don Francisco de Cárdenas, ex-counsellor of state; minister of war, Lieutenant-General Don Joaquin Jovellar, general-in-chief of the army of the center; minister of finance, Don Pedro Salaverria, formerly minister of public works and of finance; minister of marine, Don Mariano Roca de Togores, marquis of Molins, formerly minister of marine and public works and now director of the Spanish academy; minister of gobernacion, Don Francisco Romero Robledo, ex-minister of public works; minister of public works, Don Manuel de Orovio, marquis of Orovio, formerly minister of finance and of public works; minister of ultramar, Don Adelardo Lopez de Ayala, ex-minister of ultramar.

MADRID, *December 31, 1874.*

The president of the regency-ministry,
 ANTONIO CÁNOVAS DEL CASTILLO.

No. 520.

Mr. Cushing to Mr. Fish.

No. 209.]

LEGATION OF THE UNITED STATES,
Madrid, January 5, 1875. (Received February 8.)

SIR: I hasten to lay before you such appreciations of the present political situation as are suggested by personal observation and information derived from trustworthy sources. I assume that the new government possesses some elements of stability which have not belonged to any other in Spain during the last six years. It has the general support of the army, that army being the most numerous which any Spanish government has had under arms since the epoch of its independence. The officers, from the highest to the lowest, are animated by the conviction that they have more to hope, whether in the sense of their own permanence or of honors, from monarchical than from republican institutions. And the army in Spain, when the officers are united, is more potential than any and all other interests, as the world has seen, both in all the great modifications of administration during the reign of Queen Isabel and in the subsequent changes of dynasty

or government; for, in the whole history of the reign of Isabel, the men who pre-eminently controlled events as responsible statesmen, were above all successful generals, Espartero, Narvaez, O'Donnell, Serrano, Prim. Meanwhile all the public authorities throughout Spain (that is, excepting the seat of the rebellion) have either sent in their adhesion to King Alfonso, or have retired passively and unresistingly to give place to appointees of the new government. Add to this that Alfonso has been acclaimed, either by such troops as were in garrison, or by the people, or by both combined, in all the cities and large towns of Spain. These internal occurrences, as it is admitted here on all hands, impart appearance at least of exceptional strength to the new government. There is another important fact in this relation. I have had opportunity, within the last two days, of ascertaining the condition of the common people of the lower wards, (*barríos bajos*), that is to say, the operative classes outside of official circles; and I find that although at heart they are indifferent to the change as a question of political principle, and, indeed, many of them adverse, yet they are so thoroughly disgusted with everything which has happened or been done in Spain during the last few years, and especially with the suicidal misconduct of all the leading men, including the republicans, who have figured in affairs since the dethronement of Isabel, that they cheerfully accept the present counter-revolution. Moreover, it is to the epoch of the dethronement of Isabel, and to the men who produced it or succeeded in power, that the people attribute the origin of the superlative calamities under which Spain is now overwhelmed, namely, the insurrection in Cuba and the civil war in the Basque provinces and Navarre. And I learn from the consuls of the United States, as well as otherwise, that the same sentiment of acquiescence in the present change, induced by mere disgust for what has gone before, operates in the provincial cities of Spain, notwithstanding that some of them are in conviction republican. The change of government, it is true, has been brought about by military pronouncement; but it is not competent for any party in Spain to find fault with others in that respect. All parties, one after the other, have had recourse to conspiracy, violence, and usurpation in order to attain their personal or party ends. It was by military violence that Prim, Serrano, and Topete overthrew Queen Isabel. It was by military violence that Serrano became President by the will of Pavia. And although, on the abdication of Amadeo, the proclamation of the republic was not the act of this or that general, yet it was brought about by a not less flagrant violation of order and of constitutionalism, as we understand it, a mere legislative assembly of two branches having formed themselves into a constituent convention in imitation of the worst examples of the French revolution, and having then proceeded, by mere usurpation and surprise, to impose a new government on Spain. So that neither the militarism nor the illegality of the movement tends in the least degree to repel the acceptance of it in any part of the country. And quite as little repulsion is produced by the suddenness of the movement or the brief time occupied in its consummation. On the night of the 11th of February, 1873, all Spain went to bed a monarchy and woke up to its astonishment a republic. In like manner on the 2d of January, 1874, the republican dictatorship of Castelar disappeared in a night to give place to the conservative dictatorship of Serrano. Hence, on the morning of the 31st of December, 1874, it did not appear at all extraordinary to the Spaniards in waking up to find that the republic had vanished and the monarchy returned with the dramatic celerity of a

change of scenery at the opera. In truth, all the great actors in public affairs during the last six years, Prim, Serrano, Ruiz Zorrilla, Figueras, Pi y Margall, Salmeran, Castelar, have lost consideration as political guides, or as governors, by the absolute failure of each successively to prevent or terminate civil war, to maintain domestic order, to regularize the public finances, to promote industry and commerce, to protect private persons and property, to introduce liberty without anarchy or conservatism without despotism, or in any other respect to establish good government in Spain. The people are beginning to conceive that *revolutionism*, as a principle or theory of government, is the climax of nonsense and absurdity, seeing that that is to convert the desperate remedy for a mortal disease into the daily food of its life, and thus, under pretense of curing the occasional ills of the body-politic, to condemn it to inevitable death and dissolution. In a word, weary of empiricism, demagogy, and anarchy, Spain seeks refuge once more in the hoped-for repose of its traditional institutions of religion and hereditary monarchy. Whether the people of Spain will thus attain the political tranquillity which they seek remains to be seen. The difficulties before them are too serious to be disregarded. In the first place comes the question whether the restoration will be moderate, liberal, clement, and simply conservative, or whether it will be reactionary, illiberal, sanguinary, destructive, ultramontane, and despotical. Such are the conflicting interests which now agitate all men in or near to the seat of power, and which conspicuously appear even in the constitution of the new ministry. And the conflict in question is unavoidable. Half of Spain, though not distinctly republican, still is liberal; and another half of Spain is hardly less intensely Catholic and monarchical than it was in the time of Philip II. These irreconcilable interests or sentiments stand at present regarding each other in attitude of armed truce, but cannot long avoid coming into collision.

Thus, while, in his manifesto, Alfonso is made to profess ideas of constitutional administration in accordance with the spirit of the age, yet almost the first political act he performs is to signify devotedness to Pio Nono, (implying acceptance of the new syllabus of the Vatican,) as might well have been expected from the godson of the Pope. The relation of religious questions to political ones, conspicuous as it now is in Italy, France, Germany, Great Britain, and Ireland, is still more so in Spain. In the desamortization of the property of the church, the government promised to make provision for the clergy, secular and regular, including the ex-claustrated monks and nuns, many of whom had as good title to the property in their possession as any other proprietor in the country; but thus far this solemn engagement has not been fulfilled, to the consequence of almost universal discontent and disaffection on the part of the clergy. Don Alfonso will of course be called on to pay up all the long arrears of this national indebtedness. Then the clergy and their friends will undoubtedly exact the repeal of the new laws of civil marriage and registry, so as to restore to the church one of the potential elements of its authority, namely, its control of the three great stages of human life—birth, marriage, and death. More important than all which is the purpose to restore Catholic unity in Spain, which strikes deep into the very heart of many of the gravest practical questions of government. Next comes the question of the public finances, a problem apparently absolutely insoluble. If the people of Spain could be reconciled to paper-money or a legal-tender legislation like ours, she would be relieved at once of her financial difficulties. But that seems impos-

sible, whether the fact be attributable to the remarkable prudence of the people in money-matters, or to their impracticability, or to the limited scope of their national resources. Nothing short of a reign of terror administered by men of the stamp of Robespierre, Couthon, and Saint Just, with the guillotine *en permanence* behind them, could force paper-money into currency among the rural proprietors and peasants of Spain. And thus it is that she continues to stagger under the effort to do what no other modern government has proved able to do, not even Great Britain with the treasures of the Indies in her lap, namely, to carry on a great and protracted war without paper-money, (or its equivalent in other forms of credit,) and by means of the mere proceeds of annual taxation. I do not see how this state of things is to be remedied by the simple accession of Alfonso XII. Again, the energies of Spain are being exhausted, on the right hand and on the left, by her endeavors to put down two obstinate insurrections, one in the Peninsula and one in Cuba. To fail in either of these undertakings would be fatal to the new government. And these insurrections are the gigantic perils which confront Don Alfonso. As to the Carlist war, it does not as yet appear that the accession of Don Alfonso abates in the least degree the violence with which it rages in the Basque provinces, in Navarre, in Catalonia, in Aragon, or in the Maestrazgo. It is reported that Don Alfonso, immediately after his coronation here, is to proceed to Logroño and assume in person (with the Conde de Cheste to counsel him) the command of the army of the north. He will have generals enough to act under him or for him. And history is not without furnishing examples of men like Alexander, Octavius, Cæsar, Charles V, the Prince de Condé, Bonaparte, who seem to be born generals, or who, at least in youth as early, or almost as early, as Don Alfonso commanded great armies and won brilliant victories by a sort of intuitive instinct or genius of war. But no signs of any such extraordinary and abnormal qualities appear in Don Alfonso. His presence with the army of the north may impart impulse to military movements, as that of the pretender does among the Carlists. But in the present case there is no reason to expect that the course of military events will depart from the ordinary channel. According to actual appearances, it will be a matter of hard fighting, with generals of respectable but not supreme capacity on either side, and the enemy a people of mountaineers, who have never yet been effectually conquered by any of the invaders who have successively attacked them—Romans, Arabs, Goths, or modern Spaniards. And yet, not to succeed on the present occasion will be fatal to the personal prestige and to the political strength of Don Alfonso.

And then as to Cuba. Is the task before him an easy one there? The government of President Serrano has professedly been doing everything in its power, during a period of about six months, to send 12,000 men to Cuba, and thus far has barely succeeded in dispatching by dribblets one-third of that number.

I think the difficulty has been in persuading or forcing either officers or men to go to Cuba, there to encounter chances of death beyond all imaginable perils of the battle-field. Can the government of Don Alfonso overcome these embarrassments? And yet it must do so. I pause in this connection to hint only at what will be said more explicitly in another dispatch, namely, the idea which seems happily to be gaining ground among the Alfonsinos that, in the matter of Cuba, they have to count with the United States. Prominent also among the troubles of the hour is one of the chronic evils which afflict Spain, namely, the general avidity for office—*empleomanía*, as it is commonly

called here. The embarrassments which the Government of the United States suffer in this respect are sufficiently serious; but they are as nothing compared with those which weigh down the government of Spain. We have so many fields of ambition in the governments of the separate States; so many diversities of attractive and lucrative occupation in our numerous private business corporations, and in the marvelous development of our commerce and manufactures; we have such boundless opportunities for successful enterprise in the opening up and cultivation of the new Territories and States, that only a relatively small proportion of our society looks to the General Government for the means of advancement and support. In Spain it is otherwise. The number of business corporations is comparatively small; commerce and manufactures are in a languishing state; commonplace agriculture is the principal occupation of the people, and no outlets for discontent exist except beyond sea in the two Spanish Antilles and the Philippine Islands, constituting but a feeble resource for the country, which formerly had its field of emigration embracing nearly the whole of both Americas. Thus it is that such a multitude of persons seek for employment in the public offices, civil or military, of the government. The evil is aggravated by the frequent vicissitudes of party and administration, every change involving the general dismissal of those previously in office and the substitution of new appointees in their stead; each party, and each faction of a party, having a long *tail* of dependents, who compose its only strength and at the same time its incurable weakness. Nor is that all. For the most part, those who, in each one of these changes of party, go out of office, fall into the class called *cesantes*, who, while thus retired, are entitled to pensions. Even the transient ministers of the republic, some of them in office only a couple of weeks, are entitled to and receive a life-pension of 30,000 reals. Thus we have now the *cesantes* of all the parties which have successively been in power during the late revolutionary epoch, dating back to the time of Isabel. All these wrecks or dregs of so many defeated parties settle down for the most part at Madrid. Here, whilst out of office, they are chronic conspirators against every government, and one of the potential causes of the ephemeral character of the successive administrations of the country and of its never-ending political perturbations. At the present time they throng the avenues of office to such degree as almost to render the transaction of the public business impracticable, and to become an intolerable burden, not only to the ministers, but to every person who has real or supposed political influence or presumed access to any of the ministers. Thus one person, the editor of "*El Eco de España*," complains that, independently of personal applications for assistance in obtaining office, he has, in the lapse of three days only, received five hundred letters of written applications for his influence, all which it is physically impossible to answer and attend to, or even to read. Of course, very few of this host of aspirants for office will obtain it, and all who do not will fall into the putrescent condition of conspirators against the new government.

Finally, let me mention one other cause of serious apprehension for the future, and that is the *family* question. It would be very difficult for any person who contents himself with reading the proclamations, manifestoes, and speeches of the men who produced the overthrow of Queen Isabel, to understand the inducements which impelled them to such action. On the surface, it seemed to be mere personal discontent or baffled ambition, especially on the part of the soul of the movement, Prim. During the last ten years of the reign of Isabel, Spain had been

materially prosperous, and far better off in every respect than she has been any day since then. Administration, then as now, consisted of a never-ending succession of ephemeral factions, occasionally held in check by the vigor of such men as General Narvaez and General O'Donnell; but every faction out of power was loud in denunciation of the corruption of the particular faction in power, to the necessary logical conclusion of there being little to choose between any of the factions. And sure it is, whatever of misgovernment in public affairs may have existed during those ten years, it could by no possibility have exceeded the disasters without number which have since that time been crowded into the political life of Spain.

* * * * *

I am, &c.,

C. CUSHING.

No. 521.

Mr. Cushing to Mr. Fish.

No. 211.]

LEGATION OF THE UNITED STATES,
Madrid, January 12, 1875. (Received February 8.)

SIR: I inclose herewith the following documents, which exhibit the present general diplomatic situation of Spain relatively to other governments, including the United States, namely:

1. Copy of a circular communication from the Marquis de Molins, as minister of state ad interim under the regency ministry, received by me on the 5th instant.

2. A communication from the proprietary minister of state, D. Alejandro Castro, received on the 7th instant.

3. A decree of the new King, issued after his arrival in Spain, which officially constitutes the new government, as published in the Gaceta de Madrid of the 10th.

4. My response to the note of the Marquis de Molins, and to that of Mr. Castro.

* * * * *

I speak of the change as a *revolution*, for such in fact it is in a constitutional sense. Although the ministers assume a regular transmission of sovereignty by descent from Queen Isabel to her eldest son and legitimate heir, Don Alfonso, and while, in doing so, they pass over the constitution of 1869, as a nullity, to go back to the last previous constitution in force, that of 1845, yet, according to this last constitution, the theory of succession would be defective by reason of the irregularity of the abdication of Queen Isabel, since that constitution provides as follows:

"ART. 46. The King requires (*necesita*) to be authorized by a special law—

"1. To alienate, cede, or exchange any part of the territory of Spain.

"2. To admit foreign troops into the kingdom.

"3. To ratify treaties of offensive alliance, special ones of commerce, and those which stipulate the payment of subsidies to any foreign power.

"4. To abdicate the crown in favor of his immediate successor."

Now, Isabel has abdicated, it is true, but by a mere private act, without authority of any previous law, in consequence of which the point has been made, again and again, that her abdication might at any time

be revoked by her, and she might at will re-assume the crown. To be sure, there is now no cause to apprehend any such act on her part, she having, in various forms, accorded her assent and approval to the accession of Don Alfonso. Notwithstanding which, however, as a question of constitutional right, the flaw in the succession still remains to the effect of imparting a shade at least of revolutionary quality to the dynastic restoration.

In various other respects the accession of Don Alfonso involves departure from constitutionalism.

Thus, in the circular note of the Marquis de Molins, he speaks of the regency ministry as an organization "provided for by all the constitutions in the event of the absence of the King."

I cannot find any such provision in the constitution of 1845, or in any other constitution.

The constitution provides that, in case of a minority of the King, his father or mother, or, in defect of them, the next heir to the crown, shall enter at once on the exercise of the regency. But that provision does not legally apply here, because by the same constitution the King arrives at majority at the age of fourteen. Besides which, this provision of the constitution has not been observed in fact by calling the King's father or mother to the regency. (Arts. 55 and 56.)

Another article (60) provides that, if there be no other person to whom of right belongs the regency, the Cortes shall nominate one, to be composed of one, three, or five persons. But here has been no nomination by the Cortes, and the present regency consists of nine persons.

Article 61 again provides that, "when the King shall be in a state of impossibility to exercise his authority, and that impossibility shall have been recognized by the Cortes," then also the royal authority shall be exercised by a regent or a regency. But that is in no respect the present case.

Meanwhile the constitution does not provide for any such regency as the Marquis de Molins suggests, "in the *absence* of the King;" and absence from where? From Madrid? Clearly not; for it has been the practice of the King to act wherever he might be in any part of Spain. Absence from Spain? But there is no such provision in the constitution; and, in point of fact, the decree appointing the regency ministry expressly purports to be founded on an act of Don Alfonso performed outside of Spain.

Finally, add to all this the consideration that it was not a regency appointed, as a regency only could be, by the Cortes, but a regency ministry combining with the quality of a ministry the incompatible one of a regency, and its members designated in fact by a volunteer reunion of important persons under the auspices of the captain-general of New Castille; and we shall thus be constrained to conclude that the change has really been a revolutionary one.

It must be conceded at the same time that this revolution approaches nearer to legality than any previous one; that it has been accomplished without the effusion of a drop of blood, or the occurrence of the slightest breach of the peace or other disorder; and that it appears to be generally acceptable in all parts of Spain, outside of the immediate theater of civil war, and recognized as a consummated political fact by the rest of Europe.

The young King was received with royal honors in his passage through France to Marseilles, on his way to Barcelona. It seems undeniable that his reception at Barcelona was thoroughly cordial, as it will undoubtedly be at Valencia, where he arrived yesterday by water from Barce-

lona, and, meanwhile, unequivocal manifestations of support of him continue to arrive from all parts of Spain.

According to announcements made, he is to reach Madrid on Thursday, the 14th, where the most extensive arrangements and preparations have been made for his reception with all imaginable manifestations of loyalty and welcome. And, after remaining here a few days, he will proceed, by way of Zaragoza, to present himself to the army of the north.

* * * * *

The chiefs of all the legations held a meeting yesterday at the residence of Mr. le Comte de Chandordy, the French ambassador, to decide what course we shall take in the matter of the reception of King Alfonso.

We have all received individual cards of invitation to occupy a balcony of the ministry of Gobernacion, for the purpose of witnessing the processional entrance of the King into Madrid, and have accepted the invitation.

Question then arose whether we should call on the King, as proposed by the Austrian minister; but the French, Russian, British, and some other ministers, myself included, opined that it did not become us to take any such step until officially instructed or authorized so to do by our respective governments, and that proposition was rejected.

Next came the question whether we should partake in any of the forms of demonstration customary in Madrid on occasions of this nature, such as placing hangings at the windows, hoisting flags in the day-time, and illuminating our houses or offices in the night.

The conclusion was unanimous to hoist no flag, to put out hangings at discretion, if we found it convenient, but not otherwise; but to illuminate as a matter of unexceptional conformity with social usages in Europe.

I annex, in justification of my own act in this respect, an extract from the last edition of Marten's Guide Diplomatique, with the very significant explanatory note of the annotator Pinheiro.

I reserve for another dispatch some more confidential observations in reference to the special position of the United States in Spain at this time.

I have, &c.,

C. CUSHING.

P. S.—January 13, 1875. While this dispatch is being copied there comes to hand a note from the minister of state, under date of the 12th, in reply to mine of the 11th, to which I refer in this postscript in order to save the loss of time which would be produced by recopying the dispatch itself.

You will perceive, I think, that Mr. Castro meets me more than half way in the expression of readiness to proceed in this transaction of matters pending between the ministry and this legation. I shall therefore call upon him at the earliest convenient opportunity, and proceed at once to business.

[Inclosure 1 in No. 211.—Translation.]

The Marquis de Molins to Mr. Cushing.

MINISTRY OF STATE,

The Palace, January 3, 1875. (Received January 5.)

SIR: The events which have just been realized in Spain are so clear and evident that they need no demonstration; so legal and necessary, that they require no apology; and, nevertheless, so great a desire animates the regency ministry not to interrupt the

friendly relations which unite Spain with other countries, that, even in the absence of the king and of the minister especially charged with international affairs, it has the honor to address you through my channel.

Since the time when the dynasty of which Don Alfonso is the representative set foot, he being yet a child, on foreign soil, every kind of government has been tried in Spain without any success, or rather, let us say, with deplorable and ruinous result. Elective monarchy, federal republic, cantonal republic, unitarian republic, civil dictatorship, military dictatorship, and even the absolutist system, which a family of pretenders symbolizes in our country, and which, in spite of all efforts, although it is potent to occupy and ruin a portion of our territory, is powerless to establish itself throughout the whole kingdom—all has been inefficacious as well as dolorous.

Meanwhile the hearts and desires of all the world were turned with sorrow from the spectacle of present things toward the heir of our ancient kings, to Don Alphonso de Borbon y Borbon, who, by the abdication of his august mother, united in his person the monarchical right and the parliamentary tradition.

Those who, see in the religious principle the mainspring of our national history, and whose sensibilities were wounded by the excesses which in this respect were committed by the revolution, reasonably set their hopes in him, who, being the worthy heir of Catholic monarchs, abounded in the faith of his fathers without, however, seeking to make thereof an instrument and a standard for his political aspirations.

Those who, giving due heed to this same national history and still more to the just exigencies of the present age, believe to be impossible every form of government not founded in the parliamentary doctrines which the ancient Cortes foreshadowed, and which are realized among modern nations, also turned their eyes trustingly toward the king, the immediate descendant of two illustrious princesses, who, now more than forty years ago, bound together indissolubly the interests and the existence of their throne with the interests and the existence of parliamentary principles.

Even the popular classes and the most advanced parties, already taught by the experience of unfounded hopes and of deceitful promises, had sadly learned that the government most prodigal of those hopes and promises was the one that most trampled them under foot when the opportunity occurred, and exacted the greatest sacrifices of principles, of men and of interest; and they too turned their gaze toward the young heir to a constitutional throne, under the shadow of which great development had been successfully given to the public wealth, and credit had been maintained, without forgetting, however, either to spare Spanish blood or to defend sacred and still glorious interests. All opinions, in fine, and all classes had a unanimous although secret desire to return with Don Alfonso to constitutional order and to hereditary right; to re-establish with the throne the principal agent and the best supporter which, by a singular exception, the public liberties have ever had in our country. There are well-founded motives to believe that the depositaries of public power themselves knew and confessed that the proclamation of Don Alfonso, made in one way or another, was the only solution of the Spanish crisis.

There is foundation also for presuming that, if the foreign powers benevolently recognized the last dictatorship, it was in the understanding that it would lead to a monarchical solution.

That which may indeed be questioned, and does in truth appear strange, is, that the evil being so great, the remedy so evident, and the desire for it so unanimous, King Alfonso XII was not sooner proclaimed; and the explanation is at once simple and honorable. It neither comported with his decorum nor with his interests, nor with the good of the country, that the soil whereon he had been born should through his fault be stained with blood, or that his good right should be weakened by impositions of force or by melancholy excesses.

But the limit of public suffering having been reached, and the general conviction being ripe, as you have seen, it was enough that at a point distant from this capital the name of Don Alfonso should be pronounced to cause that, without violence of any kind, and without any promise whatever, in a few hours, all the great cities, although ungarrisoned, and all the lesser villages, even those governed by revolutionary authorities, and the armies themselves, without any action that might have tended to produce indiscipline, should proclaim as legitimate, constitutional king, Don Alfonso. Nor is this strange, because the traditional and hereditary right is an irresistible force, and the names, the personal qualities, and the dynastic antecedents of the King, Don Alfonso de Borbon, are a political programme. His very name, the most gloriously repeated in our history, exerts a prestige, and his education also, received during misfortune and in several capitals of Europe, is a guarantee of culture and of skill.

Of these circumstances was the product, and was born and constituted the present public power, with the sole aim of reuniting the monarchical and constitutionally, hereditary tradition by bringing to Spain the King Don Alfonso XII, assuming forthwith the character of regency ministry, provided for by all the constitutions in the event of the absence of the King.

No further than this, Mr. Minister, extend either the faculties or the plans of the

regency ministry, and for this reason they are not more explicitly expressed; but the public events are in themselves of too much gravity, and too keen our desire to surround, as soon as possible, the legitimate and constitutional throne of Don Alfonso with the good international relations which before existed, for us to longer delay giving you information of these facts, which we doubt not and hope you will bring to the knowledge of your Government, re-inforced, perhaps, with the influential testimony of that which you may have seen and appreciated for yourself in a country in which you have already resided for some time, and where you are justly esteemed.

The government has been constituted in the following manner:

President of the regency ministry, Don Antonio Cánovas del Castillo;

Minister of state, Don Alejandro Castro;

Of grace and justice, Don Francisco de Cárdenas;

Of war, the lieutenant-general Don Joaquin Jovellar;

Of finance, Don Pedro Salaverria;

Of gobernacion, Don Francisco Romero Robledo;

Of public works, Don Manuel de Orovio, Marques de Orovio;

Of ultramar, Don Adelardo Lopez de Ayala; and

Minister of marine and of state *ad interim*, the undersigned.

I avail myself of this occasion to offer to you the assurances of my most distinguished consideration.

The MARQUES DE MOLINS.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Inclosure 2 in No. 211.—Translation.]

Mr. Castro to Mr. Cushing.

MINISTRY OF STATE,

The Palace, January 6, 1875. (Received January 7.)

YOUR EXCELLENCY: I have the honor to address myself to your excellency with the object of stating to you that yesterday I took charge of the ministry of state, to which I was appointed by decree of December 31, ultimo.

In bringing this to your knowledge, I improve the occasion to offer to your excellency the assurances of my most distinguished consideration.

ALEJANDRO CASTRO.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Inclosure 3 in No. 211.—Translation.]

ROYAL DECREE APPOINTING A MINISTRY.

[From the "*Gaceta de Madrid*," January 10, 1875.]

Royal decree.

BARCELONA, January 9—3.50 p. m.

The Minister of Marine to the President of the Regency-Ministry, Madrid:

His Majesty has deigned to issue the following royal decree:

"Having happily arrived upon the territory of my country, and after giving thanks to the Divine Providence for the visible protection accorded to me, and also to the people and the sea and land forces for the constant adhesion and the enthusiastic affection they show; exercising the prerogatives which, as constitutional KING, pertain to me—

"I hereby nominate president of my council of ministers Don Antonio Canovas del Castillo; and minister of state, Don Alejandro Castro; of grace and justice, D. Francisco de Cárdenas; of war, Don Joaquin Jovellar; of finance, Don Pedro Salaverria; of marine, Don Mariano Roca de Togores, Marques de Molins; of gobernacion, Don Francisco Romero Robledo; of fomento, Don Manuel de Orovio, Marques de Orovio; and of ultramar, Don Adelardo Lopez de Ayala, who shall continue exercising, as hitherto, their respective attributions during my absence from the capital of the Kingdom, while I visit, as I propose, the armies of the center and of the north.

"Given in Barcelona, the 9th of January, 1875.

Rubricated by the royal hand.

The minister of marine—

"MARIANO ROCA DE TOGORES."

And by order of His Majesty I communicate it to your excellency for your cognizance.

[Inclosure 4 in No. 211.]

*Mr. Cushing to Mr. Castro.*LEGATION OF THE UNITED STATES,
Madrid, January 11, 1875.

SIR: I had the honor, on the 5th instant, to receive from his excellency the Marques de Molins, as minister of state *ad interim*, a communication under date of the 3d, in which he informed me of the acclamation of Don Alfonso de Borbon y Borbon to the throne of Spain—of the antecedents and inducements of that event—and of the consequent organization of a regency ministry in the absence of Don Alfonso; with expressions of desire for the continuance of the good international relations heretofore existing between foreign governments and that of Spain.

Reciprocating earnestly this desire, in so far as regards the United States of America, I hastened to transmit the note of his excellency to my Government.

I had the honor, further, on the 7th instant, to receive the note of your excellency under date of the 5th, apprising me of your having taken charge of the ministry of state, in pursuance of appointment, which I have also transmitted to my Government.

I have authority to remain at my post discharging my present functions as envoy extraordinary and minister plenipotentiary of the United States in Spain.

I assume, however, that in accordance with the general diplomatic usage of Europe, new letters of credence will be requisite for my formal presentation to His Majesty the King.

Meanwhile, I assume also, that in like accordance with diplomatic usage, officious intercourse between this legation and the ministry may still be maintained, with advantage to both countries, for the transaction of ordinary business, in the manner heretofore practiced in similar circumstances on the occasion of material changes of government. In this conception, and if your excellency entertains similar views on the subject, it will gratify me to be able at an early day to pay my respects in person at the ministry of state.

I avail myself of this opportunity to tender to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency SEÑOR DON ALEJANDRO CASTRO, *Minister of State.*

[Inclosure 5 in No. 211.—Translation.]

*Mr. Castro to Mr. Cushing.*MINISTRY OF STATE,
The Palace, January 12, 1875. (Received January 13)

YOUR EXCELLENCY: I have had the honor to receive the note of your excellency, dated yesterday, in which you are pleased to acknowledge reception of the communications from this ministry of the 3d and 5th instant, giving you knowledge of the acclamation of His Majesty Don Alfonso de Borbon y Borbon as King of Spain, of the antecedents of this fortunate event, and, lastly, of the organization of a regency-ministry during the absence of His Majesty.

I take note, with the greatest satisfaction, of what your excellency is pleased to state to me with respect to the instructions which you have received from your Government to remain at your post, discharging your present functions of envoy extraordinary and minister plenipotentiary of the United States, and I am of accord with the opinion of your excellency as to the necessity of new credentials, conformably with diplomatic usage, for the official presentation of your excellency to His Majesty the King, continuing meanwhile in the officious transaction of the matters between this ministry and the legation under the worthy charge of your excellency, as equally convenient for the interests of both nations.

In this conception, not only shall I have great pleasure in continuing to contribute to the cultivation of the friendly relations which have ever existed between Spain and the United States of America, but I earnestly desire to have the honor of making the acquaintance of your excellency, as I already have had occasion to make that of the greater part of your worthy colleagues of the diplomatic body.

I improve this opportunity to offer to your excellency the assurances of my most distinguished consideration.

ALEJANDRO CASTRO.

No. 522.

Mr. Cushing to Mr. Fish.

No. 220.]

LEGATION OF THE UNITED STATES,
Madrid, January 21, 1875. (Received February 17.)

SIR: I annex hereto a series of acts and decrees of the highest political importance, touching the relations between the new government of Don Alfonso and the Roman Catholic Church.

1. Appendix A and B consists of original and translation of a circular, under date of the 2d instant, addressed to the Spanish cardinals, archbishops, bishops, and capitular vicars, assuring them that the accession of Don Alfonso involves the termination of all persecution of the church and the restoration of cordial relations with the See of Rome, and invoking their aid for the re-establishment of peace and order in Spain.

To this circular most of the persons addressed have already responded in terms of cordial adhesion to the government.

2. Appendix C and D contain original and translation of a decree, of the 9th instant, restoring to the church all ecclesiastical edifices or other property not disposed of by proceedings of desamortization, nor covered by concordat with the See of Rome, with exception only of such as have actually been applied to the service of the state.

3. Appendix E and F consists of exposition and decree of January 15, appropriating the sum of 41,611,674 pesetas to satisfy the legal obligations of the government to the clergy for the present year, and providing for liquidation in due time of the long arrears due the clergy under the existing legislation for the secularization of ecclesiastical property, and the consequent undertaking of the state for the maintenance of the church.

4. In addition to this, the government has ordered that the archives of all the cathedrals and collegiate establishments of Spain which had been taken away from them under the administration of Mr. Ruiz Zorrilla, and stowed away as old lumber in the cellars of the ministry of fomento, shall be restored to the ecclesiastical corporations to which they respectively belong.

I have not time to comment at length on these great measures, which, independently of their intrinsic interest, are expected to exercise potential influence toward putting an end to the war in the northern and northeastern provinces of Spain.

I have, &c.,

C. CUSHING.

[B.—Inclosure 1 in No. 220.—Translation.]

Circular of the minister of grace and justice to the clergy.—Dated January 2, 1875[From the "*Gaceta de Madrid*," January 7, 1875.]

The regency-ministry being constituted, I have believed it my duty to give official information to your _____ of the fortunate occurrence to which it owes its origin. In the relations of the Catholic states with the church, that which is a prosperous event for the former cannot be other than a happy augury of success for the latter. If the church has suffered in common with the Spanish nation the countless ills of sterile political convulsions, with the advent to the throne of an illustrious prince, Catholic, like his pre-eminent ancestors, and resolved to repair of, in so far as may be possible, the injuries which have been caused, should lead us to hope for days of tranquillity and

better fortune. The proclamation of our King, Don Alfonso XII, being the true end of those disturbances, shall, for the same reason, be the beginning of a new era, in which shall be seen the re-establishment of our good relations with the common Father of the faithful, which have been unfortunately interrupted by the unjust acts and the excesses of these latter times. All that can affect these reciprocal relations shall be forthwith carried out with the counsel of wise prelates and in accord with the Holy See, and the church and her ministers shall be given all the protection which is due to them in an eminently Catholic nation like ours. To this end the government counts upon the efficient co-operation of your _____ and of your worthy companions in the episcopate, upon the assistance of the high corporations of the state, and upon the aid of all good Catholics. I take pleasure in communicating to your _____ the happy news of this salutary change in our political situation, which permits us to hope for more favorable days for the nation and for an epoch of better fortune for the church.

May God guard your _____ many years.
 Madrid, January 2, 1875.

FRANCIS DE CÁRDENAS.

To the most eminent cardinals, the very reverend archbishops, the reverend bishops, and the capitular vicars.

[D.—Inclosure 2 in No. 220.—Translation.]

Decree dated January 9, 1875, restoring to the church certain real property held by the state.

[From the "*Gaceta de Madrid*," January 10, 1875.]

MINISTRY OF FINANCE.

Decree.

When, in 1860, by agreement with the Holy See, the real estate of the clergy was transferred to the state, exception was made of such only as by its nature and conditions could not enter into commerce nor subserve any economical necessity, remaining in consequence and thenceforth completely effected the desamortization of all its real property. Subsequently, and by different authorities, various measures were adopted, by virtue of which much of the property not comprised in the transfer returned to the power of the state, some of the buildings thereon being demolished, others set apart for public uses, and the rest subsisting in the power of the state.

The regency-ministry desires to remedy, so far as may be possible, the effect of those measures, because, if it be not done, monuments which to their religious character add the merit of being artistic and historical will disappear, as many others have done, to the dishonor of the nation.

For these considerations it has decreed the following:

ARTICLE 1. The financial administrators, in accord with the very reverend archbishops and reverend bishops, shall put at the disposal of the same those estates of the clergy which, having been excepted from the transfer agreed upon with the Holy See in 1860, are to-day in the power of the state in consequence of subsequent measures, and which are not now applied to public uses.

ART. 2. If the demolition of any of the edifices on such estates shall have been begun, the financial administrators shall order the suspension of work thereon, reporting the same to the ministry of finance. Likewise they shall give account of those now employed for the public service.

ART. 3. The necessary measures shall be adopted by the ministry of finance for the execution of this decree.

Madrid, January 9, 1875.

The president of the regency-ministry,

ANTONIO CANOVAS DEL CASTILLO.

The minister of finance,

PEDRO SALAVERRÍA.

[F.—Inclosure 3 in No. 220.—Translation.]

Royal decree of January 15, 1875, charging the clerical establishment to the state as formerly.

[From the "*Gaceta de Madrid*," January 17, 1875.]

REGENCY MINISTRY.—MINISTRY OF FINANCE.

Preamble.

SEÑOR: The advent of Your Majesty to the constitutional throne signifies, in the political sphere, concord, order, and liberty; in the moral sphere, the affirmation of these sentiments of piety, honor, and highmindedness which ever constitute the character of the Spanish people; in the economical sphere, the development of our national wealth and material interests, probity in the administration, and the fidelity of the state in the fulfillment of all its obligations.

The undersigned minister, being charged with the realization of the great and just aspirations of Your Majesty, in so far as refers to the economical adjustment and better management of the public finances, deems that no measures can be received by Your Majesty with livelier interest, at the moment of occupying the throne, than these which I, to-day, have the honor to submit to the high consideration of Your Majesty.

They aim at demonstrating that the government of Your Majesty aspires, in its very first acts, to repair the lessons which the turbulences of these latter times have caused in the rights of the creditors of the state; to make it patent that no obligation is to remain ignored or forgotten; that, according to the measure of our present poverty or of our future prosperity, all these obligations will be equitably fulfilled, and, in fine, that not for a single moment, or under any pretext whatever, can doubt or dispute arise respecting the compromises contracted in the name of the nation by the powers which have successively governed, constituting, in virtue thereof, obligations for the public treasury.

Reducing, señor, these general ideas to determinate cases, the government of Your Majesty has found it necessary in the first instance to take up the anomalous situation in which it finds the payment of the appropriations for worship and the clergy, which are sacred for many reasons, and which should therefore be punctually satisfied, thus relieving so venerable a class from the state of abandonment and misery in which they now are.

Such obligations, by virtue of the laws of the kingdom, and of treaties with the Holy See, were previously comprised in the general estimates of the state, and were discharged without interruption for the space of many years.

The last estimates in which they figured as a whole were those of 1870-71. But, before then, the law of December 18, 1869, which deprived of their offices and of their salaries or pensions all those functionaries who did not swear fidelity to the constitution of that year, was applied to the clergy, without taking into account the fact that the sums assigned to them were not the recompense of an administrative function, but were in compensation of ancient rights and properties which the church had ceded to the state in the interest of the general public welfare.

Notwithstanding that measure, the clerical allowances were paid in some dioceses in part, thus establishing unjust inequalities.

At this stage of the matter there was a government which proposed to the Cortes to transfer to the provincial and municipal exchequer the totality of the ecclesiastical obligations; the project, although discussed by the Cortes, did not go so far as to receive the sanction of the crown, doubtless because, on better appreciation of its inconveniences from every point of view, it was abandoned, with the intention of returning to the regular and just order of things, and of making the state alone responsible for what was its own and unavoidable obligation.

The result was, therefore, that at one time, because of the exigency of a political oath, and at another by reason of the ecclesiastical estimates being separated from the general estimates, in the expectancy, perhaps, of the adoption of a definitive form of payment, the obligations of worship and the clergy were the only ones for which, during the last five years, no financial appropriation was made, nor payments, except those made as before stated, to a limited number of dioceses.

The last administration, with the view, doubtless, of putting an end to such a state of things, embodied in the present budget a provision according to which the estimates for the ecclesiastical obligations were to be considered augmented in the amount necessary for their payment, in conformity to the arrangement between the government and the Holy See; but the government of Your Majesty deems that it is its duty, in the fulfillment of laws and solemn stipulations, which cannot be ignored, to comprise forthwith in the current estimates the necessary credits for the appropriations for public worship and the clergy, which shall be payable from the present month, and executing an early liquidation which shall determine the sum of the particular and general arrears of these obligations, in order to establish the form in which the treasury may meet, according as its resources permit, so considerable a deficit.

The government trusts that, at the conclusion of the war, when it becomes possible to fix the sure and permanent resources upon which the state is to count for meeting the general expenditures for which it is answerable, the church, as it has itself shown in past times, will not be the last to lend its aid, without sparing sacrifices, to placing the public treasury in a condition to bear, with economy and order, the weighty burden which has been cast upon it by the political disturbances of every epoch and the misfortunes of the kingdom.

For these considerations, the undersigned, in accord with the council of ministers, has the honor to submit to the approbation of Your Majesty the annexed draught of a decree:

MADRID, *January 15, 1875.*

SEÑOR: At the royal feet of Your Majesty.

The minister of finance—

PEDRO SALAVERRIA.

Royal decree.

In view of the representations of the minister of finance, and in accord with my council of ministers, I decree the following:

ARTICLE 1. The estimate of ecclesiastical obligations corresponding to the current economical year, which is embraced in the third section of obligations of the ministerial departments, *ministry of grace and justice*, to the amount of pesetas 3,251,014.46, is hereby declared augmented to the sum total of pesetas 41,611,674, which is the amount of the same appropriation in the budget of 1870-71, the last in which were consigned all the allowances for public worship and the clergy. This augmentation shall be understood as relating exclusively to the proportional part necessary to satisfy the obligations falling due from the first of the present month to the end of the economical year, and with the same detailed distribution as in the aforesaid budget of 1870-71.

ARTICLE 2. The obligations proper to the budget, re-established by the foregoing article, shall be paid to the clergy in the accustomed form and at the same times when payment shall be made of the salaries of all the active classes of the state, according as the same shall be permitted by the preferent needs of the civil war.

ARTICLE 3. The arrears which may result in favor of the clergy on account of obligations in the previous budgets, and for sums due but not paid by the public treasury in the course of the current one, shall be the object of a liquidation which shall be effected at once, to the end that, the amount thereof being determined, the form in which satisfaction is to be made may be decided upon.

ARTICLE 4. The minister of finance shall order whatever is requisite for the execution of this decree, of which he shall in due time give account to the Cortes.

Given at the palace, January fifteenth, one thousand eight hundred and seventy-five.

RUBRICATED BY THE ROYAL HAND.

The minister of finance—

PEDRO SALAVERRÍA.

No. 523.

Mr. Cushing to Mr. Fish.

No. 245.]

LEGATION OF THE UNITED STATES,
Madrid, February 2, 1875. (Received February 26.)

SIR: Among the extreme measures of the revolutionary period which followed the dethronement of Queen Isabel, were several which seem to be inspired by mere hatred of religion rather than any intelligent idea of sound public policy.

One of these measures was the prohibition of canonical marriages, or at least the deprivation of all such marriages of any effect on the civil status; in other words, bastardizing of the issue of any such marriage.

This law was utterly repugnant to the conscientious convictions of a great majority of Spaniards.

We can imagine its influence in this respect in supposing an attempt by law in the United States thus to exclude marriages from the scope of religious sanction. Such an attempt, it is true, was made in one of the American colonies at an early period in our history, but soon yielded place to more tolerant and elevated sentiments of public policy.

The revolutionary law in question was not only repulsive to the public conscience, but was the source of constant embarrassment in all questions of civil status and descent, and in many questions of administration, such as pensions, and more especially in enlistments or conscriptions for military service.

The law has been amended by recent decree since the accession of Don Alfonso, copy and translation of which are annexed.

I have, &c.,

C. CUSHING.

[Inclosure in No. 245—Translation.]

Decree of January 22, 1875, providing for the inscription of the offspring of canonical marriage in the civil registry.

[From the "*Gaceta de Madrid*," January 23, 1875.]

MINISTRY OF GRACE AND JUSTICE.

Decree.

The royal order of February 11, 1872, which directed the inscription in the civil registry, as natural children, of all those born in canonical wedlock, although in apparent conformity with the spirit of modern laws, has deeply wounded the dignity of the Catholic marriage institution, causing continual perturbations in the family and in society.

The government cannot remain indifferent to these, and although it occupies itself preferentially in the reform of the law of civil marriage which is shortly to be made public, yet, giving heed to the incessant clamor of public opinion, which grows more emphatic day by day, it can do no less than anticipate a resolution which may harmonize the legal *status* of the children born in Christian wedlock with that which public conscience indisputably recognizes as theirs.

If, in order to respond to the necessities of the reparatory policy initiated by the government, the rights of the church are to be reconciled with those of the state, it is indispensable to recognize in the Catholic marriage-rite all the effects which were attributed thereto by our national laws, our immemorial customs, and the never-abandoned religious faith of Spaniards.

With this object, and to repair in an equitable manner the offensive condition which the existing law to-day imputes to children born of such marriages when their parents do not comply with the recent formalities of the civil registry, it is indispensable to establish simple, short, and expeditious steps whereby these children may regain a legitimacy which is to-day denied to them by the law, although Spanish society has never ceased to recognize it.

Founded, therefore, on these considerations, the KING, and in his name the regency-ministry, has accorded the following:

ARTICLE 1. Children born of exclusively canonical marriage, whose inscription in the civil registry may be competently solicited, shall be inscribed as legitimate children, provided that the marriage of their parents be legally shown.

ART. 2. In order to effect the inscription to which the preceding article refers, the declaration will, however, suffice of any one of the persons mentioned in the forty-seventh article of the law of civil registry; but said inscription shall have a provisional character until the interested parties present the marriage-certificate of the parents. This document shall be noted and recorded in the manner which may be determined by the regulations.

ART. 3. The children of exclusively canonical marriage inscribed until now as natural children, shall be inscribed forthwith at the instance of the parties as legitimate, rectifying for this purpose the entries thereof which may have been recorded.

This rectification may be solicited within the term of one year, by the parents and other persons specified in the forty-seventh article of the law above mentioned, by means of the baptismal certificate of the child registered as natural.

A special instruction will determine the form in which this document shall be noted and recorded, and in which the inscriptions in question shall be rectified whenever the interested parties shall have allowed to pass the time fixed for so doing.

ART. 4. Children born of canonical marriages subsequent to the date on which the existing law took effect, who shall not have been inscribed in the registry, shall be inscribed as legitimate in the form prescribed by the foregoing articles, their parents or guardians, who shall apply for their inscription within the term fixed in the preceding article, remaining free from all pecuniary responsibility.

ART. 5. The children to whom the preceding articles refer do not need to be presented for registry when the person designated by the law to make such presentation shall exhibit the corresponding certificate of baptism.

ART. 6. Shall be considered for all civil effects as legitimate children from the day of their birth, those born of exclusively canonical marriage, who, in virtue of the provisions of this decree, shall obtain their inscription in the civil register as being legitimated.

ART. 7. All enactments contrary to the provisions of this decree are here repealed.

MADRID, January 22, 1875.

The president of the regency-ministry,

ANTONIO CÁNOVAS DEL CASTILLO.

The minister of grace and justice,

FRANCISCO DE CÁRDENAS.

No. 524.

Mr. Cushing to Mr. Fish.

No. 256.]

LEGATION OF THE UNITED STATES,
Madrid, February 11, 1875. (Received March 12.)

SIR: I annex hereto copy and translation of a circular of the new government, authorizing precautionary measures in reference to persons engaged in acts of agitation against the domestic peace of the country, the peculiarity of which is that it proposes to deal with the leaders, not the rank and file.

This circular contains nothing new otherwise, either in theory or practice, all previous governments in Spain, liberal or illiberal, having done the same thing; for, although the last constitution in date prohibited administrative acts of banishment, yet the prohibition was nullified by the customary device of suspending the constitutional guarantees, which, of course, had the effect of leaving unlimited power in the hands of the executive.

This measure has been applied thus far to one person only, D. Manuel Ruiz Zorrilla.

* * * * *

After living in retirement at his home in one of the provinces for more than one year, that is, through the whole period of the republic, he came to Madrid a few months ago and proceeded in the first place to initiate a political movement with republican professions from one of the apartments of the Escorial.

* * * * *

He has ended with drawing on himself the animadversion of King Alfonso's government, which has invited him to leave Spain.

I have, &c.,

C. CUSHING.

[Inclosure in No. 256.—Translation.]

Precautionary measures against opposition party-leaders.[From the *Gaceta de Madrid*, February 4, 1875.]*Circular.*

MINISTRY OF GOBERNACION.

The preservation of material and moral order and their speedy re-establishment wherever they may come to be disturbed is the first duty of the government and of its representatives in the provinces, and in order that you may second the purposes of the regency-ministry, it is important that you should have perfect knowledge of the principles and rules to which to adjust your conduct in so important a question.

God has visibly protected the nation in this fortunate crisis in her history, allowing political events of such deep transcendency to be consummated without having to lament a victim or wipe away a tear because of them; on the contrary, rather, the country finds itself so refreshed on entering anew into conditions of normal existence, that it has been possible to mitigate many penalties imposed by other governments, raising decrees of banishment, revoking enforced changes of domicile, and even restoring liberty to no small number of unfortunates who rather were the victims and instruments of the crimes of others than culpable through their own willful acts.

The rebellions which afflict the country being extinguished, this work of reparation and oblivion may be completed.

But a people which has suffered such violent transitions in a few years, may readily preserve for some time afterward the smoldering germs of indiscipline, and it may be

that when the government most needs tranquillity and confidence, moral or material conflicts may be provoked by a few unquiet spirits, dissatisfied because order and the public welfare do not give them the same advantages as the anarchy and misfortune of their country.

Disorder is readily caused by no more than setting a few sophisms on foot and leaving them to wend on their way of destruction and anarchy; order laboriously creates itself, rooting assured principles and restraining with uninterrupted energy and prudence all evil passions, and to such end it is needful to repress discreetly, with as much underlying energy as prudence in procedure, every attempt at agitation which might disturb the general aspiration for peace and concord.

In this repression, and in whatever steps it may be necessary to adopt to realize it, and even to foresee it, you must earnestly bear in mind that the true responsibility for public disorder may always be traced to a small number of persons who are rarely convinced of the very ideas they diffuse; neither are they participants in the passions they excite.

It is imperative to prevent the repetition of the disheartening spectacle so frequently shown in Spain, of the hard expiation imposed on the misled sons of the people, the poor, the ignorant, the weak, seduced sometimes by the most iniquitous machinations, by whom the prisons have been filled or who have been sent to perish in remote islands, while the real culprits who dragged them on knowingly, and with interested ambition enjoy impudent impunity.

Inspired by this pre-eminent idea of the government, you should give your attention principally to those who may be leaders of any agitation which may threaten public order.

It will, in the majority of cases, sufficiently effect its repression, that one person only suffer the consequences of his conduct; it is certain that the measure will never have to be extended to many if study be devoted to the origins and beginnings of the evils it is sought to cut off, and the country will assuredly find as much justice as expediency in the inflexibly energetic chastisement of the true culprits and the granting of the largest indulgence to the mere tools of their ambition.

For like motives the Government regards as inexpedient certain general measures which have sometimes been adopted respecting those who only held affinity of ideas with the men who deserved the repressive action of the public power, basing such measures not on the direct guilt of the parties, but on the purpose to tranquilize peaceable citizens at any cost or to satisfy opinion. This is not affected by such steps, which rather irritate the undecided than deter the real disturbers. Popular sentiment is surer. Nothing so fully satisfies it as the realization of equity and justice by those in power, and this only requires that attention be given to, and the extraordinary faculties of the Government be exerted upon, the few who are the true and knowing cause of the disturbance, in defense and shelter of the many whom they seek to lead into misfortune.

Animated by these principles, you will for your part be sure of all the sound opinion of the country and will set moral and material order upon solid bases, counting in the application of such rules on the energetic support of the Government, which deems them as the most essential to which its conduct should be conformed in the present state of affairs.

Madrid, February 3, 1875.

ROMERO ROBLEDO.

The governor of the province of ———.

No. 525.

Mr. Cushing to Mr. Fish.

No. 259.]

LEGATION OF THE UNITED STATES,
Madrid, February 11, 1875. (Received March 12.)

SIR: I annex hereto copy and translation of a circular of which the professed object is to check, if possible, the tendency to military *pronunciamentos*, which constitutes one of the chronic evils of Spain.

Inasmuch as the acclamation of Don Alfonso was in its inception an act of military *pronunciamento*, many persons criticise the circular as being illogical on the part of his government.

As regards theory or doctrine there is nothing new in the measure; every previous government in Spain has applied to *defeated* political

generals the same discipline of exile or of enforced quarters in the Canaries, the Balearic Islands, or the Filipinas.

In execution of this circular three officers of the army, who were present at a political demonstration accompanying the departure of Mr. Ruiz Zorrilla from Madrid, as spoken of in my No. 256, namely, Generals Lagunero and Izquierdo and Colonel Camona, have been ordered into quarters at the Canaries or to leave Spain.

Measures of this character have this much of extenuation in Spain, that defeated or minority parties appear to be intellectually or morally incapable of *legal* opposition to the government of the time being, but recur at once to conspiracy and to mutinous insurrection as the means of regaining power. Mr. Castelar well said, in one of his best speeches, that in the crisis of every party question here, it is reduced to the inquiry, which has the *cannons* at its disposal? The patient *electoral* efforts of party minorities, which one sees in the United States, and the courteous and tolerant appeal to public opinion on the part of opposition parties in Great Britain, are traits of constitutional government quite unknown and almost incomprehensible in Spain.

I have, &c.,

C. CUSHING.

[Inclosure in No. 259.—Translation.]

Forbidding army officers to participate in party contentions.

[From the "*Gaceta de Madrid*," February 5, 1875.]

CIRCULAR.

YOUR EXCELLENCY: The participation of military men, whatever may be their rank, in the various and continuous agitations of public life, carries with it grave inconveniences, experienced at all times, and in Spain especially as never before and more than in any other country. To remedy such evils, whose own evidence needs no extensive demonstration, many measures have been directed, both in Spain and without; it being an established principle that the chiefs, officers, and soldiers of the armed forces should remain in total separation from party strife and from political ambition, so that they may give no thought save to the exalted duty of defending the social order, the laws, and the integrity and independence of their country. From this principle, which is regarded as fundamental in every well-ordered nation, exception is only admissible in the case of general officers, for they may be, and frequently are, appointed responsible ministers, or become members of the political assemblies in virtue of the free suffrage of their constituents. Thus it has come about in Spain until now, and thus it will be in future, especially if the coming Cortes admit the compatibility of military office with legislative functions, which is admitted, in greater or less degree, on all hands. But while the Cortes of the nation are not convoked, and while liberty of suffrage is temporarily suspended by the rigor of royal ordinances and of military discipline, which is and should ever be still greater in the high grades of the army than in the lower grades, equally for chiefs, officers, and soldiers, the generals themselves, whatever be the elevation of their post, should abstain from taking part in the contests of parties. This is exacted of them by sound military principles, and even by those of public right in normal times, and to-day it is moreover exacted in a more stringent manner, by the perilous state of war in which the nation now is. To meet the war with whatever elements of utility the country holds, it is indispensable that the government of the King may count alike upon all the generals, without distinction, giving heed solely to their merits and military qualifications; and this cannot, in point of fact, be reconciled with their participation in active politics, however loyal may be their intentions. As was said more than six years ago to the army, and by a minister certainly in no wise suspicious for the most advanced political schools, "What is lawful to citizens, who cannot exert upon the opinions of the rest other pressure than that of their doctrines or their isolated influence, may be deemed even punishable in those who wield the influence of command or of rank in the element armed by the state to make the law respected by those who fail to obey it or who forget it."

Starting from this proper consideration and from recognized sound military principles, which have been recalled to mind, and whose observance has been already commanded in different circulars, the regency-ministry of the kingdom has accorded to

order that with the zeal which distinguishes your excellency, and using all the efficacious means which are within the reach of your authority, you will prevent military men of all classes from taking part in reunions, manifestations, and any other acts whatsoever of a public character, it being your excellency's duty, in case of controvention of this royal order, to proceed to the detention of those who may fall into such culpability, and to give account immediately to the government for the action which may be in order.

By order of the aforesaid regency-ministry, communicated by the president thereof, minister of war *ad interim*, I say this to your excellency for your cognizance and the consequent effects.

May God guard your excellency many years.

Madrid, February 4, 1875.

The secretary—

MARCELO DE AZCARRAGA.

No. 526.

Mr. Fish to Mr. Cushing.

No. 124.]

DEPARTMENT OF STATE,
Washington, February 12, 1875.

SIR: Your No. 211, in reference to the change of government in Madrid, has been received. You inclose a copy of the circular of the Marquis de Molins, minister of state *ad interim*, announcing a temporary ministry, of a note from D'Alejandro Castro, the newly-appointed minister of state, and of a decree issued by the new King on his arrival in Spain, together with your replies to the circular and the note of the minister of foreign affairs.

I have read with interest your pungent observations upon the circular and this new effort to establish a permanent government, but I abstain at this time from extended comment upon all these matters, and upon the effect of this change upon the relations between the United States and Spain.

Your course, as detailed in this dispatch, and the tone of your replies to the Marquis de Molins and the minister of foreign affairs, are fully approved.

I am happy to perceive that your present relations are not only agreeable with the members of the new government, but that the ministry seems desirous of cultivating friendly relations with this Government.

I am, &c.,

HAMILTON FISH.

No. 527.

Mr. Cushing to Mr. Fish.

No. 270.]

LEGATION OF THE UNITED STATES,
Madrid, February 16, 1875. (Received March 12.)

SIR: I annex hereto copy and translation of a decree of January 25, 1875, re-organizing the ministry of state, which, if not containing anything useful to you by way of practical suggestion, may yet be not unacceptable as general information.

I have, &c.,

C. CUSHING.

[Inclosure in No. 270.—Translation]

Decree of January 25, 1875, organizing the ministry of state.

[From the "Gaceta de Madrid," January 26, 1875.]

MINISTRY OF STATE.

The actual organization of the ministry of state does not respond to the special service intrusted to it, neither does there exist due harmony between its diverse branches; the result of which is confusion and delay in the dispatch of its affairs for want of the proper classification of its business, which is one of the most indispensable conditions of efficient service.

For some time past, with the laudable purpose of reducing the budget, but with lamentable want of foresight, gradual reduction has been made in the official grades of the functionaries of this important department, diminishing the number of its officers and the official hierarchy to such limits that the former is insufficient for the necessities of the service, while the latter fails to correspond in rank with the relations which, in the transaction of business, the most prominent employés of the ministry are obliged to maintain with foreign representatives.

To remedy these inconveniences, giving at the same time somewhat of just development to the relative grades of the diplomatic career, it is urgently necessary to augment the *personnel* of this department and create certain posts, whose chief officers, by their rank and greater power of initiative, may be better fitted to investigate the matters confided to them and facilitate their resolution.

To this end, and bearing in mind that the slight increase which is incurred in this behalf in the working-force of employés remains abundantly compensated by the diminution of other expenses which are thereupon in a large measure reduced,

The King, and in his name the regency-ministry of the King, has seen fit to approve the following organization which, for the future, is to control the ministry of state.

ARTICLE 1. The working-force of the ministry of state is reformed in the following terms:

| | Salary. |
|--|-----------------|
| One secretary, minister plenipotentiary of the first class..... | Pesetas 12, 500 |
| One chief of the section of political affairs, minister plenipotentiary of the second class | 11, 250 |
| One chief of the section of administration and accounts, minister plenipotentiary of the second class..... | 11, 250 |
| One chief of the section of commerce and consulates, minister plenipotentiary of the second class..... | 11, 250 |
| Three first clerks, chargés d'affaires, at 10,000 pesetas each..... | 30, 000 |
| Four second clerks, secretaries of the first class, at 7,500 pesetas each..... | 30, 000 |
| Six first auxiliaries, secretaries of the second class, at 5,000 pesetas each..... | 30, 000 |
| Eight second auxiliaries, secretaries of the third class, at 3,000 pesetas each.. | 24, 000 |
| Total..... | 160, 250 |

ARTICLE 2. It corresponds to the subsecretary's office to draw up royal letters, letters of credential, and letters of recall, and those of the chancery and the cabinet, draught and prepare treaties, ratifications, full powers, commissions, and *executurs* and other analogous documents, issue passports, and sign the visés thereof, take cognizance of international matters corresponding to the royal household, and of questions relating to etiquette, ceremonials, and protocols; and to institute the proceedings relative to crosses and honors, grandeeships, *maestranzas* and titles of nobility, and draw up the royal decrees referring to the concession of these.

It shall, moreover, have in charge all that relates to the diplomatic *personnel*, the consular corps, and the staff of interpreters, the tribunal of the *rota*, [the supreme ecclesiastical tribunal of Spain,] the orders and their assemblies, agency of *preces*, [through which the papal bulls pass,] the archives, the subalterns of the ministry and its dependencies, the "seccion" of special couriers, and the private secretaryship of the minister.

It shall likewise have under its care the preparation of the *escalafones*, [classified lists of officers according to their respective rank,] and the special regulations of each branch of the service, as well as the general register of official correspondence received and sent out, and the cipher.

ARTICLE 3. It corresponds to the section of political affairs to institute all proceedings relative to diplomatic questions and to those of international policy in the provinces of ultramar; to prepare and put in form treaties of peace, friendship, and recognition, conventions for the adjustment of the judicial relations of Spain with other powers, both in civil and criminal matters, and treaties of boundaries, maritime prizes, extradition of seamen, literary copyright, civil rights, and the foreign debt, and to have cognizance in matters of the royal patronage and the ecclesiastical jurisdiction,

in so far as relates to international acts; to institute proceedings affecting nationality, and to dispatch judicial letters requisitorial, and judicial and litigious business.

ARTICLE 4. It corresponds to the section of administration and accounts to audit all the expenses of the dependencies of the ministry, both ordinary and extraordinary, to keep the accounts and computations of the productive branches of the same: to open credits in foreign countries, and to authorize the expenses of the secret service and that of vigilance; to draw up the tariffs of consular fees and the like; to prepare the general estimates, and to supervise the service performed by the disbursing office, which is at present a dependence of the ministry of finance. It shall also have under its administrative charge the *Obra Pia of Jerusalem*, with the *personnel* thereof, the beneficent establishments of Santiago and of Monserrat in Rome; all the ecclesiastical foundations in Italy which pertain or which shall pertain to Spain by royal right, patronage, or protectorate, and the property of the nation in the East and in Morocco. To it also corresponds to supervise and examine the accounts of the collections of customs in the said empire, (*Morocco*,) and the staff of collectors employed therein, so long as the intervention shall last.

ARTICLE 5. It corresponds to the section of commerce and consulates to have cognizance of mercantile affairs and of international traffic, and of those which affect the arts and industry in their relation with foreign countries; to prepare and put into form treaties and conventions of commerce, navigation, fisheries, health, beneficence, postal service, telegraphic service, and consular representation; to have cognizance of all matters concerning the exercise of consular jurisdiction, as well in civil and commercial matters as in criminal proceedings, and of the further rights and attributions of consuls; to give information respecting the general measures which may be adopted with regard to customs and to commerce in general by the other ministers, as well as with regard to universal expositions of arts and industry, to revise and publish the commercial reports of the consuls, and to take charge of the preparation of the statistical data which affect navigation and the development of international traffic.

ARTICLE 6. The force of the ministry shall be distributed as follows:

Subsecretary's office.—Chief, the subsecretary; one first clerk; one second clerk; two first auxiliaries; two second auxiliaries.

Section of political affairs.—The chief of the section; one first clerk; one second clerk; one first auxiliary; two second auxiliaries.

Section of administration and accounts.—The chief of the section; one first clerk; one second clerk; one first auxiliary; two second auxiliaries.

Section of commerce and consulates.—The chief of the section; one first clerk; two first auxiliaries; two second auxiliaries.

MADRID, January 25, 1875.

The president of the regency—ministry,

ANTONIO CANOVAS DEL CASTILLO.

The minister of state,

ALEJANDRO CASTRO.

No. 528.

Mr. Cushing to Mr. Fish.

No. 287.]

LEGATION OF THE UNITED STATES,
Madrid, February 24, 1875. (Received March 22.)

SIR: There has arisen here a question of diplomatic precedence, which seems worthy in itself to be communicated to you, and still more because it has political relations.

Mr. Layard is the oldest in office of the foreign ministers at Madrid of the rank of envoy extraordinary and minister plenipotentiary. He came here in the first instance accredited to the regency; and since then, to say nothing of intervals of mere officious residence, he has had occasion already to present new credentials twice at least, namely, to King Amadeo and to President Serrano.

Of the ministers of the same class the first to be accredited to King Alphonso was Mr. D'Antas, the minister from Portugal—formerly Portuguese minister in the United States—and the second Mr. de Kondriaffsky, minister from Russia.

Mr. Layard has not yet been accredited to King Alphonso.

In these circumstances Mr. de Kondriaaffsky suggested that precedence should date from the new credentials, nor from those presented to anterior governments; the effect of which would be to depose Mr. Layard from the precedence in his class, and to transfer that to Mr. D'Antas.

The minister of France, M. le Comte de Chandordy, ranking all the present diplomatic agents here as the only ambassador, and being of course without personal interest in the question, convoked a meeting of the diplomatic body on the 19th instant for its solution.

The question arises in the following article of the "*Réglement sur le rang entre les agens diplomatiques*," adopted by the concurrence of Austria, Spain, France, Great Britain, Portugal, Prussia, Russia, and Sweden, at the congress of Vienna, and inserted in the protocol of March 19, 1815, as follows:

ARTICLE 4. Les employés diplomatiques prendront rang entre eux dans chaque classe, d'après la date de la notification officielle de leur arrivée." (See Kluber's Acten des Wiener Congresses, t. vi, p. 204.)

At this meeting it was at once admitted on all hands that precedence did not depend on the date of official presentation to the government, but on that of the official notification of readiness to be presented and of arrival at the court for that purpose, (*notification officielle de leur arrivée*.)

But this primary conclusion did not affect the substance of the question, which, after a little debate, it came to be plainly seen was, whether a minister, whose mission is interrupted by change of dynasty or government, and the consequent necessity of presenting new credentials, should hold over as precedence from his earliest official arrival; or whether the precedence should shift with every suspension of official relations, and start anew with the new credentials, (or official notice of such credentials, without regard to the date of arrival,) or the change of dynasty or government.

Several gentlemen presented the question in its theoretic aspects, assuming that the "*arrivée*" of the "*Réglement*" intended "*arrivée*" for each dynasty or government; arguing that the minister holding over might have been accredited to and received by some previous intruder, usurping, illegitimate, and odious dynasty or government, the recognition of whose previous rank would therefore implicate the legitimate dynasty or government in *quasi* admission of the previous usurpation or intrusion, and would also be prejudicial to the rights of such foreign governments as had refused to recognize the usurpers or intruders, and had done so in the true interest of legitimate and regular government.

This argument presented distinctly the question of Russia *versus* Great Britain, and of the political effect of the different lines of policy pursued by them relatively to Spain.

To this argument the answer was that the restored legitimate government might well, in its discretion, refuse to receive a foreign minister as unacceptable personally by reason of his previous official association with the illegitimate and usurping government; but that, if it omitted to take this particular exception, such minister would continue to have precedence among those of his class in the degree of his original rank, regardless of change of dynasty or government, and of the consequent interrupted succession of accrediting acts.

M. de Chadordy stated that in France the point had been settled in practice, so as that the precedence acquired by the earliest arrival persisted (supposing a continued residence) through all changes of dynasty

or government in the diplomatic relations of foreign ministers at Paris, whether among themselves or relatively to the government.

Mr. Layard presented a document to show that the practice was the same as understood in Great Britain. Extract of the document is annexed.

Apart from these precedents, and the weight to which they are entitled as such, it seemed to me that the doctrine they assume is most conformable to the principles and usages of our diplomacy, which disregards the inquiry of legitimacy, and the inherent political embarrassments of action involved in such inquiry, and looks only to inquiries of fact in the condition of any foreign government. I therefore voted accordingly.

Such, also, was the conclusion of a great majority of the diplomatic body.

The precedence in his class therefore remains with Mr. Layard.

* * * * *

I have, &c.,

C. CUSHING.

[Inclosure in No. 287.]

Lord Palmerston to Her Majesty's minister in Persia, January 18, 1850.

[Extract.]

"I have to acquaint you that such a pretension is at variance with the practice of this court, according to which the foreign ministers preserve their relative precedence according to the date of their official notification of their first arrival, without regard to the order in which they may afterward deliver fresh credentials on the accession of a new sovereign. As an instance of this, I may state that in the year 1830, when King William IV came to the throne, Prince Lieven, the Russian ambassador, was the senior ambassador, and he preserved his precedence as such without dispute, notwithstanding that the Dutch, the French, and the Austrian ambassadors delivered their new credentials a considerable time before Prince Lieven delivered his."

In consequence of this dispatch, Colonel Shiel was instructed to resist the pretension (attributed to Prince Dolgoroucki) to take precedence of him.

No. 529.

Mr. Cushing to Mr. Fish.

No. 316.]

LEGATION OF THE UNITED STATES,
Madrid, March 16, 1875. (Received April 7.)

SIR: I do not suppose it likely that the President will be criticized for recognizing the monarchy of Don Alfonso in Spain after having recognized the republic proclaimed on the downfall of King Amadeo; but as everything is possible, however unjust it may be, on the part of factious political opposition, it may be permitted me to submit some observations on this point.

I assume that the true doctrine in this respect, as repeatedly set forth in your instructions to this legation, cannot be more succinctly or exactly stated than it is in the celebrated message of President Monroe, as follows:

"Our policy in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is, not to interfere in the internal concerns of any of its powers; to consider the government *de facto* as the legitimate government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and

manly policy, meeting in all instances the just claim of every power—submitting to injuries from no one.”

Of course, asserting for ourselves the absolute right of self constitution according to the national will, we cannot refuse the same right to others, whatever may be the resulting form. To do so would necessarily provoke retaliation, and involve us in quarrel, if not in hostility, with nearly the whole of Europe.

I have had occasion more than once in these dispatches to refer to the embarrassments and the acts of inconsequence to which other powers have been subjected in their recent dealings with Spain, by seeking to found recognition on some unstable basis of political theory other than the mere question of fact which governs the action of the United States.

A curious illustration of the practical value of our rule as the true solution of the problem has been brought to public notice by the recent action of the See of Rome in recognizing Don Alfonso.

The Carlists, of course assuming that they are the true representatives of the Catholic Church in Spain, were disturbed at first by the act of Pio IX ; but they now reconcile themselves to it by publishing in their official journal, the Cuartel Real, printed at Tolosa, in Guipúzcoa, a papal “constitution” of Gregory XVI, (1831,) which sets forth the rule of the Roman See of always recognizing *de facto* governments irrespective of questions of legitimacy. This constitution, in order to justify itself, not only refers to “the vicissitudes and changes in the organization and situation of states” in modern times, but cites ancient examples of the application of the rule, as in the recognition of Robert Bruce by John XXII, and various other old cases of the same nature, in which the Papal See was accustomed “to accord the title of king to whoever possessed a kingdom in fact,” without being understood in so doing to prejudge the question of legitimacy.

It seems to me that this document has interest not as authority, of course, but as a fact to illustrate the practical convenience of our rule, considering that the Papal See, during the thousand years and more (namely, since the time of Charlemagne) that it existed as a temporal power with perpetual succession through elective chiefs, has witnessed such innumerable changes, dynastic and political, and has entertained diplomatic relations with so many diverse forms of government in the several states of Europe and America.

* * * * *

I have, &c.,

C. CUSHING.

No. 530.

Mr. Cadwalader to Mr. Cushing.

No. 147.]

DEPARTMENT OF STATE,
Washington, March 24, 1875.

SIR: Your No. 287, of the 24th ultimo, relating to a question of precedence, recently made the subject of consideration by the diplomatic corps at Madrid, has been received.

The incident is in itself an interesting one, and the conclusion reached by that body appears to have been eminently proper.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 531.

Mr. Cushing to Mr. Fish.

No. 337.]

LEGATION OF THE UNITED STATES,
Madrid, April 10, 1875. (Received May 6.)

SIR: The chief subject of interest in Madrid at the present moment is the public disclosure of the large number of arbitrary deportations carried into effect by the party of the revolution, as they are sometimes called, comprehending the liberals, radicals, republicans, and constitutionals of the various administrations which have ruled Spain since the overthrow of Queen Isabel.

It is one of the characteristic traits of all these parties that they do not possess the discretion and self-control either to frame or to administer a practicable constitution. While in opposition, they attack without measure, and in their declamatory speeches and writings commit themselves to extravagant doctrines which are of impossible application in power. Hence the adoption of a constitution is speedily followed by a legislative act suspending its guarantees. Hence, also, the loudest professions of adhesion to parliamentary forms is accompanied by systematic disregard of the fundamental idea of such government, namely, in legislation by executive decrees and orders, and in the imposition of taxes and appropriation of the public moneys without authorization by the Cortes.

In the matter of private rights the inconsequence of these parties has been equally conspicuous. They commence with such exaggerated assertion of private rights as, if observed, would render all government impossible, and then proceed in total disregard of all private rights to a degree utterly unknown at the present time to any of the most despotic governments in Europe.

Mr. Castelar is a conspicuous example of these contradictions. His writings and speeches abound with declamatory assertions of impracticable theory, with advocacy of *retramientos*, that is, withdrawal from legitimate political opposition at the polls, to *conspire* in pretended *retirement*, and, strangest of all on the part of a theoretical republican, in praise of military *pronunciamentos*. Of course, when in office, he turns his back on all these absurdities, and loudly condemns in others what he had systematically preached as political truth.

Others of the same visionary school, when placed in power, have frankly confessed the impossibility of governing according to their professions, and have resigned rather than subject themselves to the charge of inconsequence and self-contradiction, such as Mr. Salmeron and Mr. Pí y Margall.

The deportation question curiously illustrates this defect of true statesmanship.

The constitution adopted in 1869, which the self-styled liberals assume as the embodiment of their political creed, enacts that no person shall be detained over twenty-four hours without being delivered to the proper court for trial; that no person shall be imprisoned except by judicial authority; that private domicile is sacred; that no person shall be compelled to change his place of abode otherwise than by executory judicial sentence; and that no law or other disposition shall be established to limit any of these personal immunities.

I say nothing at present of constitutional provisions which profess to secure liberty of press, speech, and public assembly, or those which require that all laws shall be passed, all taxes imposed, and all appro-

priations made solely by authority of Cortes; all which provisions are and always have been substantially a dead letter.

Now, it happened a few days since that two or three of the professors of the university, officers appointed and paid by the government, and subject by express laws to its discretion and discipline, undertook to quarrel with the government because of a circular of instructions issued by the minister of fomento. An account of this affair will be given to you in another dispatch. Dissatisfied with the conduct of these professors, the government contented itself with requiring them to leave Madrid and take up their residence in some other part of Spain.

Discontented parties at once seized on this act to indulge in the most vehement inculpation of the government for alleged arbitrary violation of private rights and of the letter of the existing constitution. The organs of the government defended the act on legal grounds. But the question of the legality of this act was lost sight of very soon in a larger question.

Among the journals which vehemently attacked the government two were conspicuous, the *Pueblo*, belonging to Mr. Garcia Ruiz, and the *Iberia*, belonging to Mr. Sagasta, who had been each ministers of government in so-called liberal or constitutional cabinets.

Thereupon came to light (indirectly, on disclosure by the present government, we may suppose) that Mr. Garcia Ruiz had himself as minister authorized or participated in the arbitrary deportation of some fourteen hundred persons to the Marian Islands, the Spanish Botany Bay, in addition to multitudes arbitrarily confined in Spain or its colonies by similar unconstitutional administrative orders of other liberal ministers; to all which the attention of the actual government had been called, partly in consequence of the general act of *indulto* for such cases lately granted by the King, (copy and translation of which are hereto annexed,) and partly in consequence of a demand from the governor of the Filipinas for a large sum of money to save the host of *deportados* from starving in the desolate Marian Islands.

The retort was a terrible one. These deportations had been concealed from outside notice or commentary at the time they occurred. As arbitrary acts, they so much exceeded in number and degree anything done or imagined by this or any other royal government of Spain in modern times as to produce a profound impression on the public mind and spread consternation in the opposition camp.

"Behold the statesmen," said the Alfonsinos, "whose creed is the assertion of 'inalienable and imprescriptible rights, anterior and superior to all human society!' These are the men who, while complaining that half a dozen mischievous persons are merely invited by the king's government to leave the court, have themselves deported fourteen hundred persons to the ends of the earth without trial, besides crowding we know not how many others into the jails and *presidios* of Spain. These are the men whose victims are now crying to Heaven for relief, and are receiving it from the indulgent hands of King Alfonso!"

How many persons have been thus imprisoned in jails and *presidios* it does not yet appear. They began, it is said, with detentions at the African *presidio* of Ceuta, dating back to the time of Mr. Salmeron and Mr. Castelar, and continued during the first and so-called liberal cabinet of President Serrano.

Of the deportations we now have some precise information; for Mr. Garcia Ruiz, stung to the quick by the manifestations of public indignation, and silenced as journalist, stepped forth into personal publicity in a letter to the "*Imparcial*," of which translation is annexed.

He admits in substance that in the time of his ministry two hundred and seventy-seven persons were thus deported; but he insists on charging eighty eight of these to previous orders of Mr. Salmeron, Mr. Castelar, and Mr. Maisonnave; and he proceeds to say that one thousand of the whole number of fourteen hundred are chargeable to the subsequent ministry of Mr. Sagasta.

That blow struck home; for Mr. Sagasta's newspaper had also, in the matter of the rebellious professors, undertaken to censure the government. He felt constrained to make personal explanation, translation of which is annexed. He speaks in a more manly spirit than Mr. Garcia Ruiz, as might have been expected, from the different characters of the two persons; he defends the deportations on the ground of political expediency, which, if admitted, effectually dispels any dream of constitutional free government in Spain.

These disclosures, addressing themselves as they do to the comprehension of all persons, high and low, are operating to the immense discredit of the implicated political parties or factions.

The discussion has drawn forth a letter from Mr. Salmeron, absolutely denying any action of his in the matter; and also another from Mr. Maisonnave, in which he admits sending persons to Ceuta, how many he does not remember, but asserts that it was for the object of provisional or temporary detention merely, and disavows any responsibility for their subsequent deportation to the Marian Islands.

That explanation leaves standing an issue between Mr. Maisonnave and Mr. Garcia Ruiz, and also leaves unexplained the violation of law by the former in not bringing to trial the persons at Ceuta during five months, which is quite as much a violation of constitution as the act of deportation itself.

Indeed Mr. Garcia Ruiz objects that the eighty-eight persons sent to Ceuta came there with professed destination to the Filipinas.

Public attention has been called to this matter, not only by the before-mentioned decree of *indulto*, but also by a decree making appropriation to pay the expenses of the deportations, for which the previous governments neglected to make provision.

I annex an article of the *Epoca* which sums up the whole matter, in the sense, of course, of making the most of it, to the advantage of D. Alfonso.

It mainly serves, in my estimation, to show that not one of these personal factions is entitled to any special or exclusive sympathy on the part of the United States.

I have, &c.,

C. CUSHING.

[Inclosure 1 in No. 337.—Translation.]

Royal decree concerning political detenidos, February 13, 1875.

[From the "*Gaceta de Madrid*," February 14, 1875.]

In attention to the reason set forth by my minister of gobernacion, in accord with the council of ministers,

I hereby decree the following:

ARTICLE 1. The governors of the provinces, where there are persons detained for political occurrences in jails, arsenals, and penal prisons, without the character of prisoners of war, shall draw up a report in order to exhibit the number and the individual circumstances of those under detention; shall immediately deliver into the power of

the competent courts those who are shown to be subject to criminal responsibility, in order to follow, with respect to them, the procedure which may be in order; and of the rest shall give account to the government, in order that the latter may accord their liberty.

ART. 2. The report shall extend to the persons transported to the transmarine provinces, who shall have been sent from each of the places of detention or penal establishments, and the captains-general of those islands shall give account of those who may be found therein, in the form established in the first article for those under detention, to the end that the government may accord their return to the Peninsula.

ART. 3. By the ministers of gobernacion and of ultramar will be communicated all the necessary orders for the execution and fulfillment of this decree.

Given at the palace the 13th of February, 1875.

Rubricated by the royal hand.

The minister of gobernacion,

FRANCISCO ROMERO Y ROBLEDO.

[Inclosure 2 in No. 337.—Translation.]

Mr. Garcia Ruiz to El Imparcial.

[From "*El Imparcial*," Madrid, April 8, 1875.]

To the Director of the "Imparcial:"

SIR: I shall be grateful to you if you will give place in your popular journal to the following lines, for which will be thankful your most affectionate friend and servant, who kisses your hand,

EUGENIO GARCIA RUIZ.

I saw last night, casually, for I am not in the habit of reading the *Correspondencia*, that that journal knowingly errs in stating on its own account (or of others) that the deportations which, for political motives, were made, according to what is said by some newspapers, to the number of 1,300 during the last year, took place in the time of Mr. Garcia Ruiz, immediately after the 3d of January, that journal thereby endeavoring to cause the odium of all the imprisonments and deportations to fall upon me personally, leaving therefore untouched Mr. Sagasta and other ministers of his political color. Vain task and insensate pretension!

I, who always have said and will say the truth, even when it be against myself, because I am one of those who believe (and events justify me therein) that only with truth and good faith can anything be established in the world, must put in evidence the following facts, which I am ready to prove now and at any time and place:

First. Apart from what the captains-general did in several districts, not a single imprisonment, still less deportation, was decreed while I was minister of gobernacion, which was not agreed upon in council of ministers, being entered in the minute-book, kept by the secretary, Mr. Balagner, in respect to which I always insisted that the proceeding should be in due order, for I knew my isolated position in the ministry of the 3d of January, and I knew beforehand that time would bring with it complaints, accusations, and even calumnies, of all of which I did not wish to bear more than the share that belonged to me.

Second. In the time of Mr. Garcia Ruiz, as the *Correspondencia* says, when it should have said in the time of the Duke de la Torre, Messrs. Sagasta, Zavala, Martos Garcia, Garcia Ruiz, &c., there were deported, by formal and solemn accord of the council of ministers, only 143 Cantonalists, made prisoners in Cartagena, who were turned over by the military authorities under the orders of the government in Almeria, at which point the steamer touched in order to take them on board, and 134 civilians, prisoners at Ceuta, the greater number (88) sent thither in the time of Messrs. Salmeron, Castelar, Maisonnave, in consequence of the events in Andalucia, &c., and the remainder (46) prisoners in Madrid not for political opinions, but because they were guilty of common crimes, as *relapsed thieves and discharged (or licensed) convicts of evil life and habits*.

Third. All the remaining persons deported were sent away in the time of Mr. Sagasta to the number of 1,000, which is known not through the person who may have said so to the *Correspondencia*, but through the agency of the steamers which took the prisoners to the Philippine Islands, with the dates of their departure from port.

Fourth. The first vessel which, by accord of the council of ministers, (the list of them being read name by name,) took to the Philippine Islands the 134 persons deported from Ceuta and Madrid, and the 143 from Cartagena, 277 in all, which was the steamer "Leon," set sail the 16th of May, 1874, and not immediately after the 3d of January; as also set sail from the same port the *Iurac-bat* with 696 deported persons on the 10th

of October following, and the Leon, (second voyage,) with 300 other deported persons on the 23d of November last.

Fifth and last. I do not rest under the charge of having imprisoned or deported any individual on my own representations, and if as minister I acceded to what the others proposed and in the degree already stated with respect to the cabinet of the 3d of January, it was because the ministry unanimously believed it necessary and salutary to send beyond the seas a few persons whom they judged to be dangerous, whether as common criminals or whether compromised by the events of Cartagena, and when, society being enervated, the civil war was raging with more strength than ever.

To sum up, during the ministry of the 3d of January, which fell on the 13th of May, there were only deported for civil causes 46 persons, all common and relapsed criminals.

MADRID, April 7, 1875.

EUGENIO GARCIA RUIZ.

[Inclosure 3 in No. 337.—Translation.]

Extract from an editorial article published in the "Iberia," Mr. Sagasta's organ.

DEPORTATIONS TO THE PHILIPPINE ISLANDS.

[From "*La Política*," Madrid, April 8, 1875.]

The Iberia makes important explanations with respect to the matter of the deportations to the Philippine Islands. Our colleague says:

"The Epoca reminds us that the deportations alluded to began on a large scale when the republican, Mr. Garcia Ruiz, was minister of gubernacion, Mr. Martors of grace and justice, and Mr. Echegary of finance. It behooves us to add that the presiding officer of that ministry was General Zavala, figuring in it beside our esteemed and dear friends Messrs. Sagasta, Topete, and Balaguer.

"Such were the members of the cabinet which 'appointed itself,' according to the expression used by the *Imparcial*, in 1875, (*sic*; should be 1874,) and which the Epoca considers graphic, without remembering that this capricious phrase may find other applications.

"We do not, therefore, under any strict and absolute obligation, to assume all the responsibility of those deportations. We assume it, nevertheless, resolutely and completely, for in this manner will ever act the present management of the Iberia whenever it is interested in acts which may partially or wholly pertain to the constitution party.

"With respect to those deported, whom the Epoca calls 'unhappy,' we confine ourselves for to-day to declaring that they were for the greater part the prime actors in the drama whose successive stages Spain will ever remember in the names of Montilla, Seville, Alcoy, Cadiz, Malaga, Valencia, Catalonia, and so many others, persons whose lot we pitied then and pity still more now, without other journals being able to outdo us in this feeling of pity, but persons also who had contributed collectively to perpetrate those grave acts, and who could not have been in every case submitted to the investigation and judgment of a court, because the courts for a long time lacked the means and forces necessary to inquire into and even decide upon the cases in which their action would have had to be concentered upon determinate individuals, and many more months would infallibly have been required to enable the judges to pronounce any exemplary sentence, when so many, so severe, and so energetic examples were demanded by the state of the country.

"This being stated, we have only to add that of the deportations mentioned, which were unknown, it is said, to all the country, full knowledge was possessed by all the prominent political men, even to the leaders of the most advanced parties, it having sufficed on several occasions that the most pronounced republicans should give assurance that a deported person was banished solely because of his political opinions, to have the order revoked, and even to have the voyage interrupted, after it had begun, by means of a telegraphic communication.

"In order to respond to the fullest extent respecting the assertions made by the "*Imparcial*," and to know how far the decisions of the governments constituted during the year 1874 were influenced by the state of slavery in which the press then was, it would be necessary for us to know how many and which journals were suspended, fined, or seized because of taking up the question of the deportations. We much fear that the number will be found small; perhaps that not one journal will be found in that category, and this notwithstanding that up to the beginning of the present year there were published various republican newspapers, and one which, without declaring it, was Carlist.

"In return, we recall that many journals, toward the end of 1873, and a considerable number after the commencement of 1874, demanded, at all times and in every possible

tone, persevering energy, salutary rigor, decision, and untiring activity, until the Spanish social structure should be restored to complete tranquillity and genuine quietude. But not in vain do the times pass and change.

"Our readers assuredly will not expect that, imitating the *Epoca*, we shall compare those circumstances and the motives of those deportations with the situation in which the country is to-day and the banishment of professors."

[Inclosure 4 in No. 337.—Translation.]

DEPORTATIONS TO THE PHILIPPINE ISLANDS.

[From "*La Epoca*," Madrid, April 9, 1875.]

From all this it results that, in 1873 and 1874—that is to say; in the two years of the Spanish republic—deportations took place while Mr. Garcia Ruiz was minister of gobernacion, before he held that office, and after he held it. Political prisoners and those suspected of common crimes were deported. Deportations were ordered by the captains-general and by the council of ministers. The Cantonalists were sent to Ceuta. There were embarked and taken to the Marian Islands those re-convicted of theft and convicts on ticket-of-leave, as well as persons deemed to be of ill life and manners. The initiative of this system was taken under the government of Mr. Castelar, and it was broadened and strengthened by that created on the 2d of January, and by that which came to an end on the 30th of December; and still these statistics, so varied and so abundant in data of different kinds, are not complete unless they be limited exclusively to the enforced voyages to the other side of the waters, since, as one of our colleagues opportunely recalls to mind, there do not figure in these statistics the enforced voyages made, for example, about a year ago, by Mr. Cazorro and Mr. Chico de Guzman.

And the most notable thing about it is, that all this has been, for the greater part, unknown to the public, the present polemic having been needed in order to disclose such charming facts and such beautiful theories.

There is nothing left to say now concerning illimitable rights and the minute guarantees with which they were surrounded by the constitution of 1869; the only novelty is in the unembarrassed freedom with which Mr. Garcia Ruiz considers as deportable matter, by mere executive order, reconvicted thieves, ticket-of-leave convicts, and people of ill life and manners. The partisans of the revolution, in spite of the importance they gave to questions of penal right, even to the point of raising some of their number to the highest positions in the state for the single merit of professing determinate ideas thereon, have not done anything to ameliorate the penitentiary system. Their pompous programmes, their severe inflexibility, which carried them even to suppressing the right of pardon, their exaggerated theories as to the nature of the penalty of which they devised the enormous paradox of regarding as a right of the criminal, were about on a-par with what we read in the communication of Mr. Garcia Ruiz. They did not establish penitentiaries in the peninsula and in the colonies, but they dragged to the Marian Islands hundreds of persons not judicially condemned. It was never seen that the new legal recourses invented in order that Spanish citizens might exact responsibility of the governmental and judicial authorities was a practical truth, and, on the contrary, one of the oldest and most constant defenders of the revolutionary doctrines believes that when an attempt is made to know what were the guarantees of security when the deportations were decreed, the public can be satisfied with the statement that the names of the victims were read one by one in council of ministers, or the other statement that not even the minister of gobernacion assumed the responsibility and the direction of what was decreed in so delicate a matter. Nothing, in more than six years, was executed or even attempted in order to imitate in our country the experiments and the institutions which in other countries have had for their object the rehabilitation by means of honest labor, and through the normal conditions of family and of society, of those who are set at liberty from convict prisons; and, instead of this, we find that, without trial and without judicial intervention, executive condemnation to the most cruel punishments was pronounced against those who had already fulfilled the penalties imposed on them conformably to law. By their manifestations of horror at the death-penalty and at all life-sentences, they initiated grave conflicts, they fomented the indiscipline of the army, and they aroused more than one political crisis; but at the same time that they denied to society the right of self-defense against the criminals duly declared such by the tribunals of justice, they gave to the Spanish government the power of imposing upon Spanish citizens whose delinquency was not proved a punishment which in very many cases, perhaps in a majority of the cases, would cause the death of the persons so punished.

If experience does not serve to make the people understand the revolutionary leaders, it will not be because the lesson has failed to be instructive and eloquent.

No. 532.

Mr. Fish to Mr. Cushing.

No. 157.]

DEPARTMENT OF STATE,
Washington, April 12, 1875.

SIR: Your No. 316, wherein you treat of the diplomatic situation in Spain, has been received.

The practice of the United States in recognizing that government of a people which is the *de facto* one, is founded upon the only true and wise principle and policy.

I am, &c.,

HAMILTON FISH.

No. 533.

Mr. Cushing to Mr. Fish.

No. 379.]

LEGATION OF THE UNITED STATES,
Madrid, May 6, 1875. (Received May 27.)

SIR: The papal nuncio, Monsignor Simeoni, archbishop of Chalcedonia *in partibus*, arrived here on the 1st instant, and on the 3d was officially presented to the King.

This event is regarded by the friends of the government as an advantage gained by them against the Carlists, and as an additional step toward the reconstitution of public authority as personified by D. Alfonso.

The discourses of reception on both sides were prepared with much discretion, and do not indicate what concessions on the part of Spain, if any, will be requisite to replace her in her old relation with the See of Rome; but the question, of course, pre-occupies public attention. I received, on the 3d instant, copy of a circular, purporting to be addressed, in the name of the nuncio, to the members of the diplomatic body, inviting us to an official call on the 6th or 7th instant. Copy and translation are annexed. This act is in accordance with diplomatic usage, according to which a nuncio, like an ambassador, instead of first calling on the other foreign ministers, as is customary among envoys extraordinary and ministers resident, fixes a day on which he will be ready to receive their calls.

In the same spirit he has precedence even of ambassadors *eo nomine*.

This point, among others of the same class, was discussed at the Congress of Vienna, where, whilst all the Catholic powers admitted this precedence as matter of traditional and established right, the powers of Protestant confession, like Great Britain, or of the Greek, like Russia, without admitting this precedence of the Pope's diplomatic representative as an absolute right, yet conceded it as a matter of courtesy. (Martens, Guide Dipl., i, 237.) The force of this rule was admitted by Lord Palmerston so late as 1849, (Calvo, t. i, 562, note,) and it has been continued until now to be observed in Europe, notwithstanding that the Pope has ceased to be a temporal power.

Although at the present time the claim of the nuncio to precedence might admit of question, not precisely on the score of religious difference, but on the ground of the discontinuance of political and diplomatic relations between the Pope and all the non-Catholic, and some

even of the Catholic powers, and that therefore the existing representation of the Papal See is purely ecclesiastical, yet it did not seem to me worth while to raise the question on the part of the United States, seeing that we, having no state church, have no occasion to be influenced by that matter, any more than by the forms of government, in our intercourse with foreign powers. Indeed, the recent introduction of non-Christian powers—China, Turkey, and Japan—into the circle of the European and America powers, has effectually served to deprive religious differences of their previous formal authority as the international regulator of diplomatic intercourse among the states of Christendom. I should not have hesitated, therefore, if standing alone, to conform to the precedent set by the congress of Vienna, as still constituting a rule of diplomatic usage and courtesy in this behalf. Nevertheless, it seemed to me convenient to explore the question. I did so; and found that the ministers of Great Britain, The Netherlands, and Sweden and Norway, had concluded to act on the rule of Vienna, although two of them at least, Great Britain and Sweden, have state confessions adverse to that of the Papal See. But, indeed, as these two governments were signatories of the regulation of Vienna, (Du Clercq ii, 179,) it was almost a matter of course on their part to accord precedence to the nuncio on this occasion. And thus my scruples on the subject, if any had existed, would have been removed. I therefore called on the nuncio this afternoon, according to invitation, and it happened by accident, not previous arrangement, that the Baron d'Ittersum, representing The Netherlands, and myself representing the United States—that is, the only two governments here which are neutral and purely tolerant in the matter of religious confessions—were not only the first to call, but found ourselves together in the reception-room of the nuncio. This casual concurrence in action was quite agreeable to me. In our two cases, at least, (whatever may be said of some others,) the course adopted has been strictly logical, and in accordance with diplomatic precedent and usage, and with the religious attitude of our respective governments. Independently of which, there is a consideration which overrides all others, and which also covers the case of the ministers of Great Britain and of Sweden and Norway.

The nuncio is the ambassador of the Pope, though with a special title. Ambassadors, legates, and nuncios are classed together in the regulation of Vienna, on the very theory of personal representativeness. Now, since the time when the barrier between the Christian and the non-Christian powers was broken down by Sir Henry Pottinger and myself in the matter of China, and by the conferences of Paris in the matter of Turkey, (to say nothing of Japan,) it is not to be doubted that if the Ottoman Sultan, who is the religious head of Islam as well as Emperor of Turkey, should send one of his pachaes here commissioned as ambassador, we should accord to him the honors of that rank. *A fortiori*, we may do so as respects the nuncio. In fine, we might eliminate from the problem the element of religion, and then the case would be that of a personage recognized as an ambassador by the court at which we are accredited, and as such entitled at that court, by practice and precedent, to the consideration of an ambassador.

On those premises but one question could be plausibly made, to wit, whether, as before suggested, in the existing state of things, the Pope, by losing his temporal power, has lost the traditional and pre-established right to send an ambassador. As to that point, it is difficult to see what authority the United States have to control in this respect the action of the various powers, including Spain, which chose to continue diplomatic

relations with the Papal See. I learn that, on special instructions, Russia holds aloof; but it is understood that the German chargé d'affaires will call in the absence of the minister, Count Hatzfeldt, and that the Italian chargé d'affaires would have called if invited. The nuncio, as is common with the superior Catholic clergy, is a highly educated and gentlemanly man of the world, about sixty years of age, passing readily, during the half hour of my being in his company, from Italian speech with members of his suite to French with Mr. d'Ittersum and to Spanish with me, and either leading or following gracefully, as the turn of conversation might require, in remarks on the affairs of the United States, of The Netherlands, and of Spain. I add, that all the foreign ministers (except of course myself) appeared in full uniform; thus, in accordance with European usage, expressly recognizing the sovereign representative character of the nuncio.

I have, &c.,

C. CUSHING.

[Inclosure 1 in No. 379.—Translation.]

Mr. Poggioli to Mr. Cushing.

MADRID, May 3, 1875.

Monseñor Giovanni Simeoni, archbishop of Chalcedonia, has presented to-day to His Catholic Majesty his letters of credence in quality of nuncio of the Holy See; and it will be extremely agreeable to him to receive Messieurs the members of the diplomatic corps at the palace of the apostolic nunciatura the 6th and 7th instant, from 2 to 4 o'clock in the afternoon.

The undersigned, secretary of the nunciatura, has the honor to communicate this to his excellency the minister plenipotentiary of the United States, and embraces with pleasure this occasion to signify to him sentiments of respectful consideration.

PIETRO POGGIOLI.

No. 534.

Mr. Cushing to Mr. Fish.

No. 408.]

LEGATION OF THE UNITED STATES,
Madrid, June 1, 1875. (Received June 21.)

SIR: I beg leave to ask your attention to a question of precedence as to which some doubt exists here, but which may possibly have been considered and settled at Washington, namely, the relative places, on ceremonious occasions, of the minister of foreign affairs of any particular government, whether monarchical or republican, and the foreign diplomatic ministers accredited to that government. The matter is treated, but not very satisfactorily, in some of the text-books. Calvo, the latest and most distinct, refers to it in the following terms:

Hors de la cour, les ambassadeurs cèdent le pas aux ministres des affaires étrangères et le conservent dans quelque lieu qu'ils se trouvent sous tous les autres dignitaires et fonctionnaires du pays où ils résident. Ces derniers jouissent au contraire, par courtoisie, de la préséance sur tous les autres membres du corps diplomatique, lorsqu'ils sont dans la maison d'un représentant étranger. (Calvo, i, 579.)

The language of this passage is neither complete and precise, nor perfectly free from obscurity.

The first of the two sentences seems to speak of ambassadors in the restricted sense, and to say that they, although direct representatives of the sovereign, yield precedence to the minister of foreign affairs everywhere except at court, where, it is implied, the minister of foreign affairs takes precedence even of ambassadors; and that ambassadors have precedence of all other local public functionaries. Of course, all foreign ministers below the rank of ambassador would yield to the minister of foreign affairs, according to Calvo. But what is the general rule in this relation as respects the precedence between foreign ministers below the rank of ambassador and high functionaries other than the minister of foreign affairs? That is left in doubt in the first sentence, which implies that such foreign ministers have precedence generally, in expressly stating that they yield it in the single case of such functionaries being in the house of a foreign representative, when, it is stated, they take precedence of all foreign representatives except ambassadors. I do not perceive any reference to this particular point in Martéus; but he disposes of an allied question as follows:

Il est d'un usage généralement é tabli, dans toutes les cours de l'Europe, de réserver au corps diplomatique, lors des grandes fêtes de gala ou des solennités publiques, les premières places après celles qui sont destinées aux princes et aux princesses du sang. (Guide Dipl., i, 154.)

In so far as regards practice here, two facts have occurred bearing on the question since the accession of D. Alfonso. At the ceremony of the Lavatorio, the tribune of the foreign representatives was on the right hand of the Princess of Asturias, that of all the members of the cabinet on the left.

At the state dinner given to the diplomatic corps, the minister of foreign affairs was placed below all the diplomatic representatives bearing the title of minister. I do not find anything to throw light on this question in Dana's Wheaton, Pradier Fodéré's Vattel, Ott's Klüber, Phillimore, or any other book of authority accessible to me here; but in a little-known work of secondary importance, entitled "Tratado de Jurisprudencia Diplomático-Consular," by D. Agustin de Letamendi, occurs a pertinent statement, the original of which is annexed hereto as appendix, and which in translation reads as follows:

In May, 1840, Baron Alleye de Cyprey, envoy extraordinary and minister plenipotentiary of France in Mexico, went, as did all the other members of the foreign diplomatic body, by official invitation, to the grand service which was solemnized in the cathedral for the consecration of the most illustrious Señor Archbishop Posadas, and upon his excellency's entering the church, he noted that the minister of relations of the republic, Don Juan de Dios Cañedo, occupied the *préséance*, or place which preceded the seats intended for the diplomatic body, and addressing himself to the Mexican minister, the French minister said to him in French and in a loud voice, "I am surprised at you, having been in Europe, do not know the place which corresponds to you; those who represent the kings of Europe do not allow themselves to be preceded by the President's minister of relations; between the chief of the republic and me, who represent the King of the Frenchmen, you should not occupy the seat you occupy." Señor Cañedo knew not what to answer, and Baron Alleye de Cyprey, without accepting the seat assigned to him, said to the members of the legation who accompanied him, "*Messieurs sortons, suivez moi.*" And they all withdrew from the church, to the notable offense of the showy and brilliant assemblage. This event gave occasion to heated and not very decorous correspondence between the legation of France and the Mexican government, which made formal demand on the cabinet of Paris for the removal of its agent in Mexico; but all was in vain, the French government sustained Baron de Cyprey, its agent, and approved his conduct.

Sr. de Litamendi professes to have been an eye-witness of this incident. I do not remember to have heard of it at the time, and do not find it alluded to in our public documents. Mr. Powhatan Ellis was

then minister of the United States in Mexico, and may have reported the incident to the State Department.

Now, on this occasion, did the Baron Alleye de Cyprey mean to assert the old but perfectly exploded doctrine of the precedence of the representative of a king over the representative of a republic? It may be so; for certainly Sor. Cañedo was quite as much the representative of the sovereignty of the Mexican Republic as the Baron Alleye de Cyprey was of the sovereignty of the King of the French. And in this view of the subject, did the latter presume on the fact that the Mexican Republic was at that conjuncture suffering under the depressing effect of its recent invasion by the French? Or did the latter intend only to assert the doctrine laid down by Martens in the passage above cited, but express himself loosely and impertinently in putting forward, without reason, the expression "the kings of Europe," as if that were of the essence of the question, when it was not, and the only pertinent consideration was that of the courtesy due to all independent and sovereign states. Considerations of this order hardly rise to the dignity of questions of international jurisprudence, but they have their importance, partly because good manners and good taste in deportment exercise influence in social, and therefore in diplomatic, intercourse; and partly because the assertion of superiority on the one side necessarily implies derogation of it on the other. Hence, while not admitting that, according to the celebrated phrase of a great personage, diplomacy is merely "*l'art de se bien cravater*," and whilst avoiding any petulant or contentious self-assertion, it seems to become me to take care not to concede, in act or word, that forms of government or titles of sovereign authority shall draw after them any depreciatory consequence as respects the United States. I therefore presume to lay such matters before you from time to time as they arise, well knowing that you will either dismiss them with a glance of the eye, or bestow thought upon them, according as they may or may not deserve attention.

I have, &c.,

C. CUSHING.

No. 535.

Mr. Fish to Mr. Cushing.

No. 187.]

DEPARTMENT OF STATE,
Washington, June 4, 1875.

SIR: Your dispatch No. 379, on the subject of the reception of the Papal nuncio, and your visit to him, has been read with much interest.

While the probabilities seem to be almost entirely against the possibility of the restoration of any temporal power to the Pope, he is still recognized as a sovereign by many of the powers of the world, which receive from him diplomatic representatives in the person of either a nuncio, or a legate, or possibly in some other capacity, and which powers also accredit to him certain diplomatic representatives.

With all such arrangements this Government abstains from interference or criticism. It is the right of those powers to determine such questions for themselves; and when one of them, at whose court this Government has a representative, receives a representative from the Pope, of higher rank than that of the representative of the United States, it becomes the duty of the latter to observe toward the Pope's representa-

tive the same courtesies and formality of the first visit, prescribed by the conventional rules of intercourse and ceremonial, and of the precedence of diplomatic agents, which have been adopted, and almost invariably acted upon, for the last sixty years.

In the case which forms the subject of your very interesting dispatch, you pursued the course which alone would have been expected from one of your accustomed prudence, and of your experience and familiarity with the proprieties of such occasions.

I am, &c.,

HAMILTON FISH.

No. 536.

Mr. Cushing to Mr. Fish.

No. 411.]

LEGATION OF THE UNITED STATES,
Madrid, June 7, 1875. (Received June 29.)

SIR: I annex hereto copy and translation of a decree of the 4th instant, on the subject of unofficial, as distinguished from official, instruction. It is complementary to the decree communicated and commented on in my No. 345, and further elucidated in my No. 354; and while it serves to confirm the appreciations of the question set forth in those dispatches, it completes the contradiction of the misrepresentations on the subject which a few busy persons, interested in maintaining abuses, had propagated in Paris and London. Prior to the issue of these decrees, public instructions in Spain and preparation for professional pursuits were in the same state of anarchy, imperfectly attempered by occasional spasms of arbitrariness, with everything else in Spain. What was called *free instruction* was a mere cover for the fabrication of advocates, physicians, and other professional persons who were making display of degrees gained without serious study, and who, while destitute of any real instruction, were imposing themselves on the community, to its prejudice and to that of all true science and merit. The evil attained such proportions that while the competition for professional employment had enormously increased, it had become the practice for the government and the municipalities, in advertising for applications, to give notice of the exclusion of aspirants of this class. The present decree, while it completes the system of professional instruction, legalizing private institutions in which all persons are free to teach and to learn outside of the official institutions, makes provision to guard against the abuse of mercenary trade in diplomas on the part of self-constituted professors, who have not taught, and pretended students who have not learned, while otherwise leaving the entire field of knowledge open to all the world, unembarrassed by the limitations which rightfully apply to the public institutions maintained by the state.

I have, &c.,

C. CUSHING.

[Inclosure 1 in No. 411.—Translation.]

Decree of June 4, 1875, regulating professional instruction.[From the "*Gaceta de Madrid*," June 5, 1875.]

PREAMBLE.

MINISTRY OF FOMENTO.

SIRE: Upon the initiation, in the decrees of July 29 and September 29, 1874, of the re-organization of the public studies, without prejudice thereby to the liberty of instruction, the government of that epoch announced its purpose to give validity to those studies which might have been privately pursued by means of a series of examinations which it did not eventually determine, and great has been the public expectation and continual the incitations and the inquiries addressed to the minister of fomento with respect to that important matter. The moment has at length arrived for satisfying this desire, maintaining, as the government of Your Majesty solemnly has offered to do in previous documents, the concurrence of private studies side by side with the official courses, without prejudice to the guarantees and proofs of fitness which it is indispensable to require in order that all the titles conferred by the state may have the same value and inspire equal confidence in the public. With this object the undersigned minister, aided by the efficient and intelligent co-operation of the council of public instruction, has studied the two principal points of the examinations and literary exercises to which are to be submitted those students who, having pursued private studies, seek to obtain academical degrees, and of the organization of the juries before which those examinations are to take place, and has the honor to-day to submit to the superior judgment of Your Majesty the result of his labor.

In that which concerns the organization of the tribunals, in view of the difficulty of finding the large number of persons competent for the discharge of a mission of such importance which would be necessary, the undersigned believes it expedient to adopt in this instance the criterion which has prevailed in the existing regulations for competitive examinations for professorships, proposing that the said tribunals shall operate only in Madrid when treating of the proofs of aptitude for obtaining degrees and titles in the several faculties and in the superior or professional school, and in the capital of the university district wherein there may be faculties or chairs of letters and sciences pertaining to the object of the examination, when treating of the degrees of bachelor and of titles of professional specialties. It has also appeared just to give participation in the juries in almost equal proportion to the official professors and to the representatives of private instruction, provided, however, that the latter possess an academical diploma guaranteeing their fitness for so difficult a charge. Unofficial instruction may in this manner have access to the juries, and the government proposes to give attention to it in proportion to the development and importance which it is steadily acquiring, exercising to the benefit of its directors and professors of the several faculties the free choice which is reserved to it in the proportion fixed in the present decree. In that which concerns the proofs of sufficiency which ought to be exacted of the applicants, it has seemed wisest to divide them into two classes: partial and analytical with respect to the courses of study of each group, concrete and synthetical for the academical degrees and for titles of professional specialties. The applicants, therefore, will have to submit themselves in the first place to examination upon courses of study, and after having obtained approbation in all of those courses, to the exercises corresponding to the respective degrees sought. All these acts shall be public, and the lessons upon which the questions of the judges are to be based shall be drawn by lot, conformably with the method adopted for official examinations by the decree of May 14. The qualifications required ought also to be equal to those which govern official instruction. And lastly, assuming the great difficulty which exists in the way of holding permanent tribunals, the examinations for giving validity to private studies shall be limited to two epochs of the year, distinct from those designated for the schools of the state.

Such, sire, are the bases upon which it has appeared to the government of Your Majesty fitting to found a genuine and profitable innovation in the legislation of public instruction, without the prejudices for society in general and for the students in particular which were inseparable from the system of absolute liberty. Without full confidence of having attained this end, but assured of having endeavored to do so, and of having taken the first step in a path which may lead to important and solid advancements, the undersigned has now the high honor of submitting to Your Majesty the following project of a decree.

Sire, at the royal feet of Your Majesty,
The minister of fomento,

THE MARQUIS DE OROVIO.

MADRID, June 4, 1875.

ROYAL DECREE.

In attention to the reasons set forth to me by my minister of fomento, I hereby decree the following:

ARTICLE 1. The tribunals which are to have cognizance in the examinations and literary exercises to which are submitted those who, having pursued private courses of study, make application to receive academical degrees, shall be held only in Madrid when treating of the proofs of aptitude to obtain degrees and diplomas in the several faculties, superior schools, and professional schools, and in the capitals of those university districts wherein there may be faculties or professorships of letters or sciences analogous to those which may be the subject of the examination when treating of the degrees of bachelor and diplomas of professional specialties.

ART. 2. The tribunals shall sit in the months of April and November of each year, during the time necessary for the termination of the examinations and exercises of degrees and diplomas of the candidates presenting themselves.

ART. 3. The number of voting members who are to constitute the tribunals of examination shall be five in those corresponding to faculties and superior or professional schools, and seven in those pertaining to the degree of bachelor and diplomas of professional specialties.

ART. 4. A member of the council of public instruction, who shall not be a professor in active service, shall preside over the tribunals of examination corresponding to faculties and superior or professional schools; a person distinguished for his learning, who shall not belong to either public or private instruction, to be selected by the government from among three proposed by the rector of the district, shall preside over those of the degree of bachelor and diplomas of professional specialties.

ART. 5. Of the four voting members who, with the president, are to form part of the tribunal of superior and professional studies, two shall be numerary professors of courses of study comprised in the group under examination, and the remaining two shall be freely chosen by the government among persons who, while not belonging to the official system of instruction, are possessed of the requisites of being members of the royal academies, doctors, licentiates, who may hold corresponding superior diplomas, exercising their profession with recognized credit, or who may be dedicated to private instruction with superior academical diploma. The government shall designate also two voting members besides, one of each class, who may be substituted for the foregoing in case of absence, sickness, or vacancy.

ART. 6. Of the six voting members who, with the president, are to form each one of the two tribunals for the degree of bachelor or diplomas of professional specialties, three shall be numerary professors of corresponding courses of study, and the remaining three shall be freely chosen by the government among persons who, while not being enrolled among official professors, may be doctors or licentiates in letters or sciences, according to the group of courses of study, who may hold diplomas of professional specialty corresponding to the examination, if this be for such specialties, or diplomas of a faculty or of architect, for those corresponding to the sciences. The government shall also designate two voting members besides, one for each class, who may be substituted for the foregoing in case of absence, sickness, or vacancy.

ART. 7. Until the programmes, whereof the fifth article of the royal decree of February 25 last speaks, shall be published, the tribunals shall limit themselves in the examination of the candidates to the extension given to the corresponding courses of instruction in the universities, superior or professional schools and institutes.

ART. 8. The proofs of sufficiency shall be partial and analytical with respect to the studies of each group, concrete and synthetical with relation to the academical degrees and professional diplomas.

ART. 9. The candidates shall satisfy one-half of the matriculation fees prescribed by the laws for the official alumni, making the payment, upon approbation, when the examination of all the groups are terminated and before the exercises of the degree. The candidate, on presenting himself to the tribunals, shall produce proof that he has paid twenty-five pesetas for examination fees in each group of courses of study or of exercises for degrees.

ART. 10. The candidates shall, before the proofs of aptitude necessary to obtain a degree or diploma, produce evidence that they have received that which precedes it in the academical series, conformably to the prescriptions of the law.

ART. 11. The candidates shall be submitted, first, to examination in the several courses of study; second, to the exercises of the respective degree after having been approved in all the preceding examinations.

ART. 12. The examinations upon the several courses of study shall be conducted in the different academical studies in the following groups and form:

HIGHER INSTRUCTION—DEGREE OF BACHELOR.

First group.—Primary instruction, Latin and Spanish, rhetoric and poetry.

Second group.—Geography, general history, history of Spain, psychology, logic, and ethics.

Third group.—Arithmetic and algebra, geometry and trigonometry.

Fourth group.—Physics and chemistry, natural history, physiology and hygiene.

DIPLOMAS OF PROFESSIONAL SPECIALTIES—EXPERTS.

First group.—Primary studies and preparatory or preliminary courses of studies essential to the special branch.

Second group.—Theoretico practical courses pertaining to such specialty.

Third group.—Practical studies completing the same.

PROFESSIONAL TITLES.

The groups of courses of study corresponding to these respective titles shall be made in the order of, and with subjection to, the programmes published on the 20th of September, 1858.

DEGREES OF FACULTIES AND TITLES OF SUPERIOR SCHOOLS.

The groups of courses of study which constitute the faculties and superior schools in addition to the sections which each one may have, shall be those which may be permitted by the conception and nature of its teachings, the first group being composed of the courses of study of the preparatory year or years in the faculties and schools which now exist, and the remaining groups comprising the concluding courses according to the respective matters taught.

ART. 13. The candidates for degrees or diplomas under the prescriptions of this educational scheme shall perform in equal form and number the exercises which the laws prescribe for those of the official system, paying the same fees as the latter for the issue of the diploma.

ART. 14. All the ceremonies shall be public, and announced beforehand on the bulletin-board of the respective establishments.

ART. 15. The minimum of duration of the examination shall be twenty minutes for each course of study comprised in the group, and an interval of eight days shall elapse between the several sessions.

ART. 16. At the time of each examination there shall be publicly drawn by lot four lessons from the general programme of each course of study, which shall be the subject of the questions put by the jurors.

ART. 17. Approbation in any one exercise shall not be sufficient by itself alone to give academical validity to the courses of study comprised therein.

ART. 18. The qualifications of the examinations shall be equal to those of the official alumni, and the candidate who may be suspended can only on payment of new examination-fees repeat his examination at the meeting next following. Suspension in any one group of courses of study or exercise twice in succession annuls the approbation of all the groups and exercises preceding it in the respective academical degree.

ART. 19. On the termination of any examination or exercise the decision shall be immediately made public, and that of suspension, which may be incurred by the candidates for approbation in the higher grades of study, must be communicated officially to the other universities wherein like examinations may be held, in order to prevent the candidates from repeating new examinations during the period of suspension.

ART. 20. The secretaries of universities or corresponding establishments shall draw up under their own responsibility the *expediente* of identification of the candidate, it being the duty of the same to present it to the tribunal of examination, he being, however, authorized to delegate his powers to the chief clerk in the secretary's office of the respective faculty, school, or institute.

Given at the palace June 4, 1875.

ALFONSO.

The minister y fomento,
MANUEL DE OROVIO.

No. 537.

Mr. Cushing to Mr. Fish.

No. 421.]

LEGATION OF THE UNITED STATES,

Madrid, June 19, 1875. (Received July 8.)

SIR: In meditating on the aspects and chances of existing relations between the United States and Spain, which subject occupies me by

preference the whole time, my thoughts naturally turn back to the antecedents of the subject in the past intercourse of the two governments.

It did not need this retrospect to satisfy me that, next to England and France, and perhaps next to England alone, Spain, (including her colonies in America,) has been and still is the point of capital interest for the United States. In the discovery of the New World, in the successive stages of its colonization, in the political vicissitudes its various parts have undergone, in its relation to other European governments, and especially in proportion as their power in America has diminished and ours has increased, the political condition of Spain, its interests and its purposes, have necessarily attracted the attention and acted on the public policy of the United States.

To these considerations, it seems to me, it may be attributed, in part at least, that so much of the national literature of the United States, and some of the best of it, has been dedicated to Spanish history, as exemplified in the conspicuous cases of Irving, of Prescott, and of Ticknor.

The United States and Spain were associated together in our war of Independence by the voluntary act of Spain. That association continued to be a necessary one while the greater portion of America, including our entire southern frontier, from ocean to ocean, remained subject to Spain; and the same necessity must last so long as Spain continues to hold her present place in the West Indies.

There has been continuity of identical cause for all this from the beginning to the present day, so as to make the study of that cause and of its effects in all the periods of our common history, and through all its shifting manifestations, a matter of supreme interest to the United States.

I feel oppressed, in reflecting on these facts, by the sense of the magnitude and importance of our Spanish interests, commercially and politically, with unavailing regrets that incidental and transitory questions are so much in the way here of large measures of advantage to the United States.

I solicit indulgence, then, for the present cursory review of our diplomatic relations with this country, regarded especially in the light of the professed public policy and inducements of action of Spain herself in the successive reigns of Charles III, Charles IV, Ferdinand VII, and Isabel II.

CHARLES III.

Ample means to appreciate the character of Charles III generally, and the secret springs of his policy toward the United States, are to be found in the works of two historical writers of authority, D. Andres Muriel and D. Antonio Ferrer del Rio. We thus learn not only what Charles and his ministers declared in official dispatches, but also what they thought and said in the most intimate councils of the king's cabinet.

Charles, it is now clear, did not resolve to take our part, as many have supposed, solely or mainly in obsequiousness to France, or in execution of the treaty of alliance between the Bourbons, commonly called the "family-compact." His real springs of action lay much deeper even than those of France.

Charles III, although not a brilliant prince or a good soldier, was endowed with singular simplicity and uprightness of character, earnest in the performance of public duty as a sovereign, but animated with

still profounder convictions of dignity, conscience, and good faith as a man. He would say that such a thing might be politic for a king to do, but not fit for Carlos.

Thus, for the space of twenty-nine years, he governed Spain as an absolute prince, but with two objects constantly before his mind—the good of Spain and the personal integrity of her King.

During these years it was the dream of his life, by day and by night, to recover Spanish territory, of which, as he conceived, Spain had been feloniously robbed by England, especially Jamaica and the coast of Honduras, and Florida in America, Gibraltar and Minorca in Europe. In this fact we have the key to all his foreign policy; add to which, that he never forgot or forgave the violence done to him by England whilst he was King of Naples.

Nevertheless, although England was affording cause enough of war by her acts in Spanish America, Charles did not act precipitately nor yield to the combined instances of France and the United States until after protracted efforts to persuade the British government to enter into negotiations with the thirteen colonies, ample evidence of which appears in the Secret Journals of Congress, (Ex. gr. II, 301.)

Charles III then engaged actively on our side in the war of Independence, and with decisive influence. For the indefatigable efforts of Spain to recover Gibraltar, and her actual success in regaining, by force of arms, Minorca and Florida, and in breaking up those attempted conquests of England in Campeachy and Central America, founded on the phantom monarchy of the Mosquito Indians, which have reappeared under the same pretensions since in controversy between Great Britain and the United States, contributed potentially to compel the British government at length to recognize the independence of the United States, and to make peace with us and with our allies. (See Cantillo's review of the negociation and its results, *Tratados*, p. 577.)

Spain, therefore, issued from that contest triumphantly, to all appearance, with room for doubt only whether it was wise, on her part, considering the magnitude of her own colonies in America, to set before them the example of the successful revolution of the United States.

If we lay aside as of doubtful authenticity the celebrated letter attributed to the Conde de Aranda, no reason will appear for inculpating the policy of Charles III on this account, earnestly as that side of the question is presented by D. Andres Muriel. Our example was not regarded at that time as being so contagious as it has been since; in point of fact, other important British colonies, which might have been supposed to be specially subject to the contagion, refused, and still refuse, to follow our example. And the better opinion in Spain is that the revolt of her American colonies is to be attributed, not to the contagion of our example, but to the dissolution of all metropolitan authority in Spain by the invasion of Napoleon, and that Great Britain did more than the United States to effect the ultimate complete separation of the Spanish colonies of America.

Such is the opinion of D. Antonio Ferrer del Rio.

At any rate the hypothesis of the indirect influence of the United States in the loss of her American colonies to Spain is so purely argumentative, and that of the direct influence of France and Great Britain is so plain and palpable, that no grudge against us in this respect seems to exist in Spain, and the consideration does not seem to have operated to our prejudice in any of our negotiations with the Spanish government, which is the important point for us.

These conclusions, favorable to us, are confirmed by the whole tenor

of the remarkable paper entitled "Confidential instruction for direction of the council of state," signed by Charles III in 1787, and made public in 1839 by D. Andres Muriel. This document shows no fear of the political example of the United States, but warns against the aggressive tendencies of our frontier population, and on this account suggests particular measures for the protection of Louisiana, Florida, and New Mexico; apart from which the "instruction" devotes only a single brief chapter to the United States, as follows :

CCCXIV. United States of America.

With the other princes and potentates of Africa, Asia, and America, we have no interests calling for particular instruction. I have intimated elsewhere, in treating of the affairs of the Indies, what ought to be done and the conduct to be followed as respects the United States. *We should handle them with policy; treat them well where to do so would not involve grave inconvenience, and favor them against whoever may seek to injure them.* In matters of commerce we can concede the same to them as to the most favored nation, but that should be after regulating the boundary with our Floridas and assuring the exclusion of their issue by the Mississippi to the Gulf of Mexico. For the rest, the discords which reign in those States, by reason of the inquietude of the inhabitants and their love of personal independence, are favorable to us, and will always be cause of their debility.

Neither the *Caude de Florida-blanca*, in writing these words, it is manifest, nor Charles III in adopting them as the line of policy of himself and his successors, had any misgiving respecting the example of the United States. On the contrary, the general spirit of the "instruction" is one of well-considered friendship and good-will toward us, notwithstanding what it says on the subject of the navigation of the Mississippi, possessed on both sides (in its lower course, at least) by Spain.

CHARLES IV.

In the Memoirs, written by or for D. Manuel de Godoy long after the events to which they refer, indications exist of a disposition to criticise the policy of Charles III in regard to America, but nothing of this sort appears in the negotiations with the United States by the *Principe de la Paz* as the all-powerful favorite and minister of Charles IV.

Those negotiations were conducted in literal conformity with the spirit of the "Confidential instruction;" that is, in friendliness and even favor toward us, but with special attention to the boundaries of Florida, and persistent solicitude to keep shut against us the mouths of the Mississippi.

At that epoch, to wit, during the administration of Washington, the question of boundaries on the side of Florida had not become, practically, a very serious one to us, but the new populations on the banks of the Ohio, the Kentucky, and the Tennessee began at once to call for navigable access to the Gulf of Mexico at New Orleans.

For a long time the opposite pretensions of the two governments appeared to be quite irreconcilable. Neither Mr. Jay and Mr. Carmichael at Madrid during the continuance of the war of independence, nor Mr. Jay at Paris at its conclusion, nor Mr. Carmichael or Mr. Short afterward at Madrid, could overcome the objection of the Spanish government to opening the Mississippi.

But the progress of the French revolution produced a decisive change in the views of the court of Madrid. Spain found herself involved in war with France without being able to count on any alliance for the security of her vast transmarine possessions, except the very doubtful one of Great Britain. Meanwhile the United States imposed restrictions on the commerce of every power with which they had no treaty. They

were not bound by any express convention to respect the territorial rights of Spain, and their people were threatening to take forcible possession of the navigation of the Mississippi.

In these circumstances D. Manuel de Godoy invited a resumption of negotiations for the settlement of all pending questions between the two governments on condition of the guarantee by the United States of the integrity of the Spanish possessions in America.

Hence came the mission of Mr. Pinckney and the conclusion of the treaty of 1795, in which the United States succeeded in fixing all the essential clauses as they desired, and without entering into the proposed guarantee, notwithstanding the great reluctance of Godoy to yield the point of a commercial depot at New Orleans.

In considering how long a period elapsed before any treaties of the same comprehensiveness were concluded between Spain and other powers, and that even to this day her commercial relations with Great Britain stand on less advantageous treaty-terms, it seems but just to recognize on this occasion the influence of the kindly sentiments of Charles III toward the United States.

FERDINAND VII.

Nor did the same influence fail to be felt during the reign of Ferdinand VII, disturbed as our relations were by the revolutionary movements in Spanish America, in regard to which the acts of mercenary intermeddling on the part of many persons in the United States were dishonorable to themselves and embarrassing to their Government.

In the midst of all which, however, we succeeded, thanks to the persistent good intentions of Spain, in negotiating the treaty of 1819, which not only liquidated all reciprocal private reclamations, years before we reached the same result with some other European governments, but also assured to us the acquisition of the two Floridas and the safety of our frontier on the side of the Gulf of Mexico.

It is to be remembered, also, that although Spain felt deeply wounded by the breach of faith committed by Napoleon in transferring Louisiana to the United States, yet she made no issue with us on that point; but, on the contrary, impliedly confirmed that act in the cession of the Floridas.

As well in the cession of Louisiana to France, as in that of the Floridas to the United States, we have direct contradiction of the assumption, so frequently put forward in argument by Spaniards of late, that Spain cannot part with any territory without forfeiture of honor. While such an argument might be plausibly sustained in regard to the European territory of Spain herself, it is of little force as applied to untenable possessions in America.

Accordingly, D. Andres Muriel, while he so vehemently impugns the general policy of Charles III toward the United States, yet emphatically approves the act of Ferdinand VII in ceding to us the Floridas.

ISABEL II.

Arrived at this point, nothing would remain but the relations of the United States to Cuba and Puerto Rico, the remnant only of those great American questions which brought the United States and Spain into association at the outset, and have so continued them into the present day.

Thus it is that D. Facundo Goñi, afterwards Spanish minister at

Washington, in his "Treatise on the International Relations of Spain," published in 1848, refers to the United States in the following terms:

The first of the independent peoples of North America to which we are allied by treaty is the Republic of the United States, which was also the first European colony which proclaimed its emancipation from its mother country, England. As early as 1795 we celebrated with the United States a treaty of peace and friendship, commerce and definition of boundaries between the territory of that republic and of the Eastern and Western Floridas, which then belonged to Spain. We subsequently celebrated with that Republic certain other treaties on incidental matters. Of this nature was the one concluded on the 11th of August, 1802, to determine the reciprocal indemnification for damages sustained by both nations during the war of the preceding years, which treaty was not ratified at that time because of various differences which arose between the contracting parties, and its ratification was only accorded as a preliminary for the adjustment of another of peace, friendship, and boundaries, signed at Washington in 1819. Finally, on the 17th of February, 1834, was celebrated the last convention for the arrangement of certain reclamations of the United States. To-day our relations with that Republic are amicable; but we ought to regard it as one of the most formidable enemies to our Antillas, because, even after having attained an already colossal aggrandizement, its tendencies toward extending itself on the Gulf of Mexico are well known.

Of the great residuary question of the Antillas, involving commercial interests of the highest importance as well as political, it would be out of place to speak here, in this paper, designed only to bring into view the conspicuous traits which have characterized the antecedent relations of the two governments, and the definite friendly direction imparted to those relations by the wise and upright King Charles III.

I have, &c.,

C. CUSHING.

No. 538.

Mr. Cushing to Mr. Fish.

No. 431.]

LEGATION OF THE UNITED STATES,
Madrid, June 29, 1875. (Received July 19.)

SIR: We are, according to all appearances, on the eve of interesting events, military and political, of which report will be transmitted in due time.

A decree of this date, ordering the retaliatory confiscation of the property of Carlists, is annexed in copy and translation, as one of the indications of a new stage in the war between the government of Spain and its rebellious provinces.

I call attention to the circumstance that, in the prefatory exposition, the minister of gobernacion cites and relies upon the example of the United States.

I have, &c.,

C. CUSHING.

[Inclosure to No. 431.—Translation.]

Decree of June 29, 1875, enforcing retaliatory measures against Carlist sympathizers.

[From the "Gaceta de Madrid," June 29, 1875.]

MINISTRY OF GOBERNACION.

Preamble.

SIRE: In view of the evils of the civil war, impelled by the clamor of public opinion, and basing its act on a law of just defense, the government constituted in July of

last year decreed the embargo of the property of those who were found to be members of the factions, and of those who are aiding them with resources, news, and whatever other means they deem conducive to keep alive the flames of discord and to facilitate the impossible triumph of absolutism.

That measure, if it needed justification, would find it most fully in the example offered not many years ago by one of the nations which lead the van in civilization, and which at the time was victim of a civil war, which, like ours, disturbed its peace and menaced its existence.

It is a law of warfare, admitting of no argument, to deprive the enemy of whatever resources may strengthen his resistance; and it is an eternal law of justice, written in every code, and ever will be to exact indemnification for injuries caused by crime and violence, at the expense of the authors thereof.

For such just and evident considerations, the government of Your Majesty has maintained in force the decree of July 18, 1874.

It is necessary, however, to recognize that neither the government which framed it, nor that of Your Majesty, although for very different reasons, have carried it into effect with the rigor demanded by the character which the defenders of Carlism have impressed upon the war. The patriotic care not to exacerbate the war in the interest of the country, and in the hope that it would soon terminate, is no longer possible in view of the tenacity of the enemy and the barbarity of his acts. Within the limits which every well-ordered government finds set for its measures by the mere fact of its being such, it becomes needful, therefore, to display all the severity possible, and to proceed with inflexible resolution against all those upon whom rests any responsibility for such outrages.

Kidnaping of persons, conflagrations and shootings, perpetrated in their raids by those who style themselves soldiers of the religious faith of our ancestors; the system of extermination which they carry out against the persons and property of those who remain faithful to the legitimacy personified by Your Majesty and to representative institutions, confiscating and selling landed estates and publishing proclamations, in which they adjudicate to the provinces the property of the liberals, give their so-called authorities the right to cut down woods and plantations, and destine the proceeds of confiscations to the rebel troops, ignoring the principle of ownership as much as the most violent communists could do, all this forces the government to propose to Your Majesty several measures to yield resources to indemnify the villages and families, to render easier the administration of the estates embargoed under the decree of the 18th of last July, and more rapid the application of the proceeds of their revenues, and to put an end to the constant conspiracy maintained in the cities by those who, abusing the tolerance of the government and the noble purposes of Your Majesty, find in this impunity opportunity to favor and aid their armed coreligionaries.

Such are the ends which the government proposes to attain by means of the accompanying project of decree, which, in accord with the council of ministers, the undersigned minister has the honor to submit to the approval of Your Majesty.

SIRE: At your majesty's royal feet,

FRANCISCO ROMERO ROBLED0.

MADRID, June 29, 1875.

ROYAL DECREE.

On the proposal of the minister of gubernacion, and in accord with the council of ministers, I hereby decree the following:

ARTICLE 1. Those who may acquire for themselves or for a third party, or who may authorize or intervene, directly or indirectly, in the sales of property made by the so-called Carlist authorities in the territory occupied by them, whether such estates belong to the towns or are those confiscated from private parties, shall be prosecuted and delivered up to the courts of justice in order to make effective the civil and criminal responsibilities determined in the code for the authors of crimes against property.

ARR. 2. Shall be expelled from Spanish territory all those families whereof the head or any of its sons may be found serving in the factions, so soon as the authority of the respective province shall have cognizance of this fact; it being understood, for the effects of this article, that the family is composed of the persons legally subject to the control of its head. If it appear to the authority that, against the will of his parents, any one has taken up arms and joined himself to the rebels, all measures with respect to the parents shall be suspended, giving account thereof to the government.

ARR. 3. All the individuals who have belonged to Carlist committees or juntas, and who shall not present themselves within the fixed term of fifteen days from the publication of this decree, before the nearest gubernatorial authority to make their submission and recognition of the King and his government, shall suffer the penalty prescribed in the preceding article.

ART. 4. For each person whom the Carlists cast into prison or hold as a hostage, the authorities shall proceed to detain, from among those known by their adhesion to or sympathy with the cause of the rebels, a number, which they shall fix according to the circumstances of each case, giving account thereof to the government. Those detained for this reason shall remain in the public jail of the respective province until the government shall determine their ultimate destination.

ART. 5. The proceeds and revenues of property embargoed, and which shall be embargoed, in virtue of the decree of July 18, 1874, shall be destined in the first place to indemnify the injuries caused in the locality or in the province wherein they lie, and the remainder, if there be any, or the entire proceeds in other cases, shall be applied to the purposes prescribed in the decree of the 18th of July.

ART. 6. The administration of embargoed property shall, from the publication of this decree, cease to be in charge of the provincial subtreasurers, and shall be confided to administrators appointed by the minister of gobernacion, conformably with the needs of this service in each province.

ART. 7. These administrators shall be directly dependent upon the subsecretaryship of the ministry of gobernacion, to which they shall make monthly return of the proceeds of the estates placed in their charge, adding thereto a report of the state of the lands, the improvements necessary to be made therein, and all other details which they may consider opportune for the most exact and skillful fulfillment of this decree and of that of July 18, 1874.

ART. 8. The net proceeds of the embargoed estates shall be remitted by the administrators to the ministry of gobernacion, in order that the latter may determine their distribution to the corresponding uses. These funds, immediately on their receipt in the ministry, shall be deposited in special account-current in the bank of Spain, remaining at the order and charge of the subsecretary's office, which shall organize a bureau for preparing the necessary *expedientes* for the administration and employment of these moneys. The resolutions relative to the definitive employment of these funds shall be drawn up by the minister of gobernacion, in accord with the council of ministers.

ART. 9. The accounts of the administrators shall be subject to the approbation of the subsecretary's office of the ministry of gobernacion, and those which the latter office shall prepare quarterly of the employment of the funds it receives shall be submitted to the examination and approbation of the council of ministers.

ART. 10. The administrators shall receive as sole salary a certain percentage of the revenues of the embargoed estates, which shall be fixed by the ministry in each case in view of the proceeds and of the amount of the lands placed in their charge, and all other expenses of administration shall likewise be deducted from said revenues.

ART. 11. By the minister of gobernacion, in accord with the minister of finance, shall be prepared the necessary instruction for the delivery by the provincial subtreasurers to the special administrators of the property embargoed up to date.

ART. 12. The minister of gobernacion shall prepare the requisite instructions for fixing the powers, bonds, and responsibilities of the administrators and other requirements needful for the good management and employment of the revenues from embargoes.

ART. 13. By the ministry of war shall be addressed to the generals-in-chief and captains-general of the provinces in which rebel forces exist the orders conducive to the execution of this decree.

Given in the palace June 29, 1875.

The minister of gobernacion—

ALFONSO.

FRANCISCO ROMERO ROBLEDÓ.

No. 539.

Mr. Cushing to Mr. Fish.

No. 435.]

LEGATION OF THE UNITED STATES,
Madrid, July 2, 1875. (Received July 19.)

SIR: I think you may desire to be fully informed regarding the proposed general sequestration of the property of Carlists in arms, or actively aiding their fellows in arms, seeing that it bears on a question so much discussed by us in the matter of Cuba, and seeing also that it

professes to be in imitation of the policy of our Government during the secession war.

For this reason copy and translation of a circular on the subject in to-day's "*Gaceta*" are herewith transmitted.

It is understood that, in aid of these instructions of the minister of gubernacion, the minister of war has issued instructions to the generals in the field and to those in command of military districts to effect the expulsion or deportation of the families of all active Carlists, the destruction of all crops susceptible of being utilized by the enemy, and the sequestration of the property of all persons who directly or indirectly favor the rebels, whether by seditious propagandism or with material supplies, the proceeds to be applied preferentially to the indemnification of loyal persons who may have been prejudiced in person or property by acts of the Carlists.

These measures are warmly applauded by most of the journals of Madrid, which, indeed, for some time past have been complaining of the gentleness and complaisance of the government in this respect, and exhorting to imitation of the greater energy of action displayed by our Government in like circumstances.

Announcement is made to-day of the actual application of these measures of rigor to the property and families of the Duque de la Union de Cuba, the Conde de Bornos, and other persons of distinction in Madrid.

I have, &c.,

C. CUSHING.

[Inclosure in No. 435.—Translation.]

Circular in reference to the execution of the decree of June 29 against the Carlists, dated July 1, 1875.

[From the "*Gaceta de Madrid*," July 2, 1875.]

MINISTRY OF GOBERNACION.

Circular.

The punctual execution of the decree published in the "*Gaceta*" of the 29th of June last demands as much activity as energy on the part of the authorities at the head of the respective provinces. The government is resolved that its enactments shall not be a dead letter nor a mere menace of severities continually postponed. These measures, which the conduct of the rebels imposes as necessary, must be applied with inflexible rigor, and it is indispensable that, setting aside all manner of personal considerations, you become imbued with the determination of the government, and, without vacillations or condescensions, give it your aid by the means you may have within your reach to realize that determination. The ends of self-defense, which justify legislative embargoes, ought to be a practical truth, because if they are not to produce positive benefits, whether in the indemnification of loyal citizens or in the chastisement and breaking up of the enemy, it would be better to forego them, and not add loss of prestige on the part of the authorities to the humiliation of impassively looking on and beholding proceedings by means of which the right of property is abolished for the liberals throughout the kingdom and the complete realization of its value is attempted in the territory occupied by the rebellion.

The government, far from this, if it with pain finds itself obliged to accept such exceptional measures, understands that the unavoidable consequence thereof is to make its effects speedily felt, and in all parts the existing decrees, not being mere theoretical declarations but positive enactments, which must be fulfilled with the most persistent rigor to all their extremes.

It will not be hidden from your good judgment that embargoes of property are not solely chastisements, repressions of individual offenses; they are, before all and above all, a war measure; and that even as their justification and foundation can alone be found in the cruel necessities of warfare, so also they should reach, if they are to be

efficacious, all those who may be considered as enemies in the civil war which is destroying us, even though the place wherein they may chance to be, the circumstances which surround them, or other causes foreign to their desires, may prevent them from taking up arms or displaying the Carlist standard with their own hands.

There is now no truce for the hopes that, out of respect for the principles of humanity in the relations of the combat, the sectaries of absolutism will moderate the traditional ferocity of their proclamations and their conduct; and it is impossible for the government to renounce its superiority and fail to search out the enemies of the nation wheresoever they may be found, while the rebels are legislating for all its territory, and are executing their exactions upon the liberals to the utmost limits to which their roving bands attain.

So, then, although in the province administered by you, the Carlist party may not be actually in arms and may not appear to be perilous in this conception, it is needful that you apply to its individuals the provisions of the decree in question, so that as many as may result as being in any way identified with the rebels, whether by maintaining correspondence with them, or by receiving and propagating journals, or performing analogous acts which constitute party and political ties, shall be considered as declared enemies, and for all effects of the embargoes shall be treated as such.

The government holds a conviction that as many as may be found in this case are in nowise grateful for the benignity or tenderness with which they have hitherto been treated, since the effects of their hostility are alone limited by their impotence; and it judges that it may better to its own profit the conditions of the struggle by depriving those persons of their means of action, and no longer tolerating their hostile, thankless, and underhanded course.

Acting on these principles, the government has accepted and developed a system of legislative embargoes, and you must perforce put it into practice in your province with inflexibility and at the same time with impartiality, without affording pretext for the suspicion, even, that so melancholy a necessity of war be mixed in any case with any other ends, taking especial care that in no instance shall it be made the instrument of private vengeance or local jealousies, and punishing with extreme severity whatever abuses may chance to be committed in this matter, which unfortunately affords such scope for abuses.

To this end you are to compare and seek your information from different sources, and to incite the zeal of all the authorities and dependents of your administration, so that one and all may second you in your course of investigation into the resources of the enemy, relying upon the firmest support of the government in whatever steps you propose or adopt, founded in equity and in the real necessities of this service, whatever may be the nature of the difficulties which offer themselves in its realization.

The administration of embargoed property, now confided to functionaries dependent upon this ministry on account of the difficulties presented in giving similar functions to the officers of the treasury, demands also your especial attention, since, as the representative of the government in the province under your command, the duty is incumbent upon you of causing to be obeyed the instructions which are given you in this behalf, and to watch that all legitimate exigencies of public opinion be satisfied. In a word, these measures, by their own nature, are essentially political; and, obeying rather the procedure of circumstances than absolute principles, you should give to their execution the energy and activity which I reiterately recommend to you, for only thus will you respond to the design of the government, which is no other save that of abbreviating the duration of the struggle, and causing it to bear less heavily on those who adhere to the cause of order and of liberty.

By royal order I say this to you for your information and the consequent effects. May God guard you many years.

MADRID, July 1, 1875.

ROMERO Y ROBLEDO.

To the governor of the province of —.

No. 540.

Mr. Cushing to Mr. Fish.

No. 448.]

LEGATION OF THE UNITED STATES,
Madrid, July 17, 1875. (Received August 4.)

SIR: I communicated to you in my No. 431 copy and translation of a decree of June 29, for the embargo of all property of Carlists.

For the reasons stated in that dispatch, namely, that this decree is one of the measures of more earnest prosecution of Carlism, and that it is adopted avowedly in imitation of the policy of the United States in like circumstances, it seems to me needful you should possess a copy of the instructions just issued by the ministry of gobernacion for the execution of the decree in question, which is hereto annexed in original and in translation.

I have, &c.,

C. CUSHING.

[Inclosure in No. 448.—Translation.]

Royal order of July 14, 1875, prescribing rules for the execution of the embargo decree of June 29, 1875.

[From the "*Gaceta de Madrid*," July 15, 1875.]

ROYAL ORDER.

MINISTRY OF GOBERNACION.

The faithful and speedy fulfillment of the enactments contained in the royal decree of 29th June last, in reference to the embargo of property of rebel Carlists and their aiders, being of interest to the public peace and the weal of the state, His Majesty the King (whom may God guard) has been pleased to approve the following instruction for the execution of the above-mentioned royal decree.

By royal order I say this to you for your knowledge and the consequent effects. May God guard you many years.

Madrid, July 14, 1875.

ROMERO Y ROBLEDO.

The GOVERNOR of the Province of ———.

INSTRUCTION.

Approved by His Majesty the King, (whom may God guard,) for the execution of the royal decree of the 29th of June of this year, respecting the embargo of property of the Carlist rebels and their aiders.

ARTICLE 1. The minister of gobernacion, after having previously received the reports and information which he may deem necessary to insure right action, or on the proposal of the civil governors, will designate by means of royal orders the persons whose property has to be embargoed according to the tenor of the provisions of the decrees of the 18th of July, 1874, and the 29th of June of the current year.

ART. 2. The civil governors shall execute for themselves, or shall cause to be executed by means of the alcaldes of the towns, to whom they shall delegate their authority for this purpose, the orders of embargo which may be communicated to them by the ministry of gobernacion.

ART. 3. The governors, or the alcaldes, according to the cases of the preceding article, so soon as they receive the superior mandate, shall proceed to effect, without loss of time, the legal operation of embargo, after previously summoning the proprietor, custodian, or person in charge of the property. This summons may be made by means of a subpoena served by a constable, or verbally, according to the circumstances and nature of the property which is the object of the measure.

ART. 4. If it be not known in which town the persons comprised in the foregoing provisions possess property, the civil governors shall transfer the order of embargo to the alcaldes of the towns where those persons have their legal domicile or residence; and if they be absent from Spain, or be found to be in the rebel ranks, or if their whereabouts be not known, they shall communicate the order to the alcaldes of the towns wherein they may have last had their domicile, in order that the order of embargo may produce its effects so far as possible.

ART. 5. In order to effect the said operations of embargo, the authority charged therewith shall present himself in person, assisted by a notary, the secretary of the town-board of the town wherein the property lies, and three witnesses, of not less than twenty-five years of age, who shall be residents of the place and of known probity. In default of a notary, one more witness shall always attend, and the secretary shall certify the act, (or minute of the proceeding.)

ART. 6. The governor, or alcalde, accompanied by the functionaries and witnesses spoken of in the preceding article, shall draw up the act (or minute) of having effected the embargo, including therein an inventory, wherein shall appear in a succinct and orderly manner the circumstances, class, and number of the properties embargoed.

ART. 7. Of this act, which shall be made of official record in the corresponding notarial office, or which shall, in default thereof, be filed in the archives of the secretary's office of the town-board of the place in which the embargo shall have taken place, three authenticated copies shall be taken, of which one shall be remitted to the ministry of gobernacion, another shall be of record in the secretary's office of the governmental headquarters of the province, and the third shall pass to the power of the special administrator charged with the service.

At the end of each one of these three copies shall be inscribed the record of the administrator's having taken charge of the property.

ART. 8. The embargo being completed, the governor shall give cognizance thereof to the registrar, or registrars of property in the respective judicial districts, in order that these may make in their books the corresponding annotations conformably to right.

ART. 9. There shall be deemed subject to these embargoes all properties of every kind belonging to the persons designated; by the term "property" being understood:

1st. Rural or city lands, with all the appurtenances for their use, improvements, and means of working the same.

2d. Movable property and live stock.

3d. Manufacturing or industrial establishments, with all their dependencies, stock, tools, and products on sale.

4th. Revenues and public stocks.

5th. Shares of the Bank of Spain.

6th. Shares or stock of societies, companies, and mercantile and industrial enterprises.

7th. Accounts-current in societies, companies, public establishments, and business houses.

8th. Salaries, incomes, pensions, vested rights, and feudal dues, and any other rights, shares, and credits which may appear, or shall be discovered to be, the property of the said persons.

ART. 10. Of property held in usufruct, shall only be embargoed the produce or revenue.

ART. 11. The occultation of properties, incomes, stocks, accounts-current, salaries, or receipts which, in any conception, may be enjoyed by the persons comprehended in these embargoes, constituting a real fraud on the interests of the State, those who denounce such occultations shall be paid a certain percentage, which the minister of gobernacion shall fix, after hearing the governors and upon the proposal of the special administrators, taking into account the entity of the revenues or products of the property discovered and the prescriptions established by the public treasury for analogous cases.

That portion of their property occulted by the persons who shall have suffered embargo shall alone be the object of the denunciation.

ART. 12. Within the three days following the entrance into possession of the special administrators, the provincial subtreasurers shall turn over to them, under inventory and with all due formalities, the full evidence of embargoes, with capitals, values, produce, and other effects which may have taken place up to that time.

Of these inventories one authenticated copy shall be remitted to this ministry, and another shall be delivered to the governor of the province, in order that he may unite it to the general *expediente*.

ART. 13. The special administrators shall likewise remit to the ministry of gobernacion copy of the contracts for the leasing of the embargoed lands, and shall submit for the approval of the civil governor of the province the projected forms of lease of all such estates as may not be already leased.

These leases shall be made only by means of public bids, and shall be announced, with at least fifteen days of anticipation, in the official gazette of the province, or by edicts.

ART. 14. So soon as the special administrators shall have taken charge of the property hitherto embargoed, they shall deposit the capitals and values, if such be not already deposited, in the public establishment destined to that purpose.

ART. 15. The values expressed in the preceding article, and those which shall be afterward paid in like conception into the establishments referred to, shall be subject to the order of this ministry.

ART. 16. The special administrators shall pass official communications to the lessees of the embargoed lands, informing them of the obligation under which they lie to pay over to the new administration the revenues corresponding to the said property, and notifying them that in the fixed time of fifteen days they shall exhibit the con-

tracts, or articles of lease, or shall manifest the form in which they may have effected the same.

For these purposes the special administrators shall act in agreement with the alcaldes of the respective towns, but, however, through the medium of the civil governor of the province.

ART. 17. The administration of these properties, as well as the sale of the produce and effects coming from the same, shall be conducted in strict subjection to the formalities and rules established by the ministry of hacienda for the properties of the State, subject, however, to the alterations which this ministry may see fit to make, and which shall be opportunely communicated to the special administrators.

ART. 18. The special administrators shall be dependent upon the subsecretary's office of the ministry of gobernacion; but their communications, accounts, and other documents shall always be addressed through the channel of the civil governors of the provinces, who, at the same time, while exercising vigilance and inspection over their administrations, shall lend to the same all necessary aid, proposing and reporting to the ministry whatever they may believe to be conducive to the best service.

ART. 19. The amount of the property embargoed in each province being known, the minister of gobernacion, on the proposal of the civil governors, and after hearing the subsecretary's office, shall fix the amount of security to be given by the special administrator thereof, as well as the premium which is to be received by the administration, the cost of the material and personal staff of the latter being defrayed by it.

ART. 20. All the capitals and values produced by the embargoed property shall always remain in the conception of deposit or account-current, according to the nature thereof, in the Bank of Spain or in the branch establishments of the same.

ART. 21. Of the products of the said property shall be formed a general fund, defraying therewith—

1st. The expenses of administration, personal staff, informers' rewards, and other charges comprehended in the existing enactments; and

2d. Indemnification for injuries caused by the Carlists to the towns and to private parties.

ART. 22. Every three months the subsecretary of the ministry of gobernacion shall prepare a general account of receipts and expenditures duly justified, which, with the indorsement of the minister of gobernacion, shall be submitted to the approbation of the council of ministers. After approval, it shall be published in the "*Gaceta de Madrid*."

ART. 23. The accounts being approved and the *expedientes* of indemnification being completed, the subsecretary shall issue the proper warrant of payment at the charge of the Bank of Spain.

ART. 24. In the ministry of gobernacion, and under the direct dependence of the subsecretary, shall be established in due time, by means of royal decree, a special department charged with this service, whose functions and powers shall be fixed in virtue of a system of regulations.

ART. 25. The minister of gobernacion shall issue the further general or special instructions which may be necessary for the development and execution of the different points comprehended in the orders and regulations in force in this matter.

ART. 26. The instructions of the 1st and 5th of August, 1874, for the execution of the decree of the 18th of July of the same year, in so far as they are opposed to the present instruction, are hereby repealed.

Madrid, July 14, 1875.

Approved:

ROMERO Y ROBLEDO.

No. 541.

Mr. Cushing to Mr. Fish.

No. 463.]

LEGATION OF THE UNITED STATES,
Madrid, August 2, 1875. (Received August 27.)

SIR: I have been accustomed to assume that you receive from the agents of the United States in Puerto Rico all desirable information regarding the internal condition of that island, including the successive measures adopted in execution of the law of emancipation enacted by the Córtes of Spain. Hence, it has seemed to me unnecessary to occupy your time with disquisitions of mine on the general subject.

Meanwhile, my attention here has been drawn to several pertinent matters, which were noted for future possible reference as they came

before me, and which are brought back to my mind by two decrees just published providing funds for the indemnification of the masters of slaves emancipated by law in Puerto Rico.

I transmit copy of these decrees for reference, but without translation, deeming it sufficient to give an abstract of their tenor in the body of my dispatch.

After recitation of the fact of the flourishing condition of the revenues of Puerto Rico, its balances on hand, and the consequent high credit of its treasury, provision is made for the issue of seventy thousand *titulos*, with the name of "treasury bills of the island of Puerto Rico," of one hundred dollars each, with interest at 6 per cent., redeemable in yearly installments by lot, with guarantee of the revenues of the island.

These bills are to be put in the market at par, less a commission of 1½ per cent. on their negotiation.

If the entire emission shall not be taken up in three months, the balance will be disposed of in conformity with the sixth article of the law of emancipation; that is to say, "the titles will be delivered to the actual possessors of the slaves" entitled to the indemnification. To secure the means of paying these bills, the special duties on exports provided by the existing law will be continued, if necessary, for the period of seventeen years.

I transmit also, for reference, a copy of the "*Gaceta*" of October 18, 1874, containing the last budget for Puerto Rico.

So much for these decrees. I subjoin some miscellaneous observations.

All the accounts received here, whether from Spanish or other sources, concur in representing favorably the state of things in Puerto Rico.

These favorable reports cover all questions, not only of the general political and economical condition, but also in what relates to emancipation. Thus, in a report from Consul Pauli to Lord Derby, dated May 12, 1875, we read:

"I can report with confidence that the *liberto* under contract enjoys the same treatment as the free laborer, whether natives of this country (Puerto Rico) or British blacks from our own islands, except as to the fact of being bound by contract until the 20th of April, 1876. * * *

On the whole, I think the abolition of slavery has been a great success, and, except to the planter, who stands a bad chance of being paid for his slaves, *has been honestly and intelligently carried out.*"

All the reports from Spanish writers, public and private, are to the same effect; and their correctness is proved by the perfect tranquillity which exists in Puerto Rico, the contentedness of the *libertos* as well as the planters, the economic prosperity of the island, the excess of revenue over estimates and necessities, and the *loyalty* of the inhabitants of all classes, to such a degree that the governor has found no difficulty in sending from Puerto Rico considerable re-enforcements for service in Cuba.

The information which Mr. Layard receives and transmits to his government is to the same effect, as shown by his dispatches communicated to Parliament.

I think it the more important to refer to these reports because of the scandalous misrepresentations of the subject which appear in the British "*Anti-Slavery Reporter*," especially in its number for October 1, 1874, in an article entitled "*Slavery re-established in Puerto Rico.*"

This *philanthropic* falsehood is based on the "reglamento para la ejecucion de la ley de abolicion de la esclavitud en esa isla," (Puerto

Rico,) issued by the government of President Serrano in August, 1874, a copy of which is annexed, which *codified* and slightly modified certain provisional regulations previously issued by General Primo de Rivera in June preceding, and afterward by General Sanz, successively governors of Puerto Rico.

These regulations were somewhat criticised at the time by the *republican* press of Madrid, chiefly on the ground that they involved some variance of pre-existing contracts between the *libertos* and their masters, and the measure was denounced as *re-actionary*, without consideration whether it was in itself wise and beneficial or not and in accordance with the law of the Córtes.

That the "replamento" is in substance judicious is proved by the results, as testified by Consul Pauli. But whether it was or was not judicious, in substance it was in conformity with the law of emancipation.

You, of course, were advised of all the successive steps of the measure, but they certainly did not fix themselves in the general mind. I had myself, until re-examination of the subject, supposed that the law of emancipation was in conformity with that presented to the Córtes by Mr. Mosquera, in December, 1872, as minister of ultramar in the Martos-Zorilla cabinet of King Amadeus.

That bill, in five short sentences, provides :

"1. Remains totally abolished, and forever, slavery, in the province of Puerto Rico. The slaves shall be free, in fact, at the conclusion of four months following the publication of this law in the Official Gazette of said province.

"2. The owners of the slaves emancipated shall be indemnified in the term expressed in the foregoing article, conformably to the dispositions of the present law."

3, 4, 5 provide for effecting the indemnification and otherwise executing the law.

If this bill had ever become a law, the several replamentos above referred to might well have been criticised and denounced; but they are not censurable in my judgment, when compared with the letter and spirit of the actual law.

That law, passed by the revolutionary national assembly on the 22d of March, 1873, and published in the "*Gaceta*" of the 26th of March, enacts:

"1. Remains abolished forever slavery in the island of Puerto Rico.

"2. The freedmen remain obliged to enter into contracts with their actual possessors, with other persons, or with the state, for a period which shall not be less than three years.

"In these contracts will intervene, in the character of curators of the freedmen, three official functionaries, appointed by the superior government, with the name of protectors of the freedmen."

3, 4, 5, and 6 provide for the indemnification of the owners.

"7. The freedmen shall enter into the full enjoyment of their political rights at the end of five years from the publication of this law in the "*Gaceta de Madrid*."

"8. The government will dictate the dispositions necessary for the execution of this law and attend to the exigencies of beneficence and of labor which the same may render necessary."

I am not prepared to criticise the terms of this law, but if it be compared with the bill proposed by the Zorrilla-Martos government, it would be seen that the reaction or retrogression is in the law itself, not in the regulations adopted by the local governors or the superior government.

For we still have the testimony of impartial observers that the provisions of the law have "been honestly and intelligently carried out."

There is remarkable contrast between the condition of Puerto Rico and that of Cuba. In the first place, the climate and the natural conditions of life are decidedly superior in Puerto Rico to what they are in Cuba; secondly, the inhabitants are better men, physically and morally, than the Cubans. In the third place, *free* labor is and always has been the prominent fact in Puerto Rico, in the place of slave-labor, as in Cuba. According to the latest census of Puerto Rico, that of 1872, the population stood thus:

| | | |
|----------------------|---------|---------|
| Whites | | 328,806 |
| Blacks, { free | 257,709 | |
| { slaves | 31,635 | |
| | <hr/> | 289,344 |
| Total | | 618,150 |

That is to say, in a population of 618,150 souls, only 31,635 slaves, or, ay, $5\frac{1}{10}$ per cent.

On the other hand, in Cuba we have:

| | | |
|------------------------|---------|-----------|
| Whites | | 728,968 |
| Blacks, { slaves | 388,550 | |
| { free | 225,938 | |
| | <hr/> | 594,488 |
| Total | | 1,323,456 |

That is, slaves, $27\frac{4}{5}$ per cent. of the whole population. Hence, the great *ingenios*, with their masses of congregated slaves, their cruel repression, and their *suicides*, so common in Cuba, are almost unknown in Puerto Rico.

Finally, the immigration to Puerto Rico is chiefly Catalan and Biscayan, who go there to live; while that of Cuba is largely Castilian (or Andalusian) and Asturian, too many of them having no purpose of permanent identification with the interests of the island.

Of the many inhabitants of the Canary Islands who emigrate, nearly all go to Cuba. The political influence of the *Isleños*, as they are called, is considerable in some parts of Cuba, where, also, they have propagated the defectiveness and obscurity of articulation and consequent indistinctness of speech characteristic of the Canary Islands. As the result of all these facts, Puerto Rico has always been exempt from the semi-insane spirit of chronic rebellion which has so long prevailed in Cuba, and which, whatever pretexts or even plausible reasons it may allege in the want of wisdom of the superior government, has its real causes in the character, conduct, and mode of life of the Cubans themselves, as demonstrated by the opposite state of things existing in Puerto Rico and the consequent peacefulness, contentedness, and prosperity of the lesser Antilla.

I have, &c.,

C. CUSHING.

No. 542.

Mr. Cushing to Mr. Fish.

No. 520.]

LEGATION OF THE UNITED STATES,
Madrid, September 14, 1875. (Received Oct. 5.)

SIR: I hasten to send to you a document of great importance in itself, which already produces much emotion and commotion, and which is calculated to have serious effects on the present fortunes of Spain.

It is a circular addressed to the bishops of Spain by the papal nuncio, in the name of the Pope, and of his mere authority, denouncing the clause of the proposed constitution in reference to religious toleration, and insisting not only on absolute religious unity in matters of faith, but also on the prohibition of any instruction, public or *private*, other than in conformity with the dogmas of the Roman Catholic Church.

Its premises purport to be the stipulations of the last Concordat between the Papal See and the Spanish government.

It is the more odious to the public sense in that it is an act of intromission in the domestic affairs of the country, unauthorized by the government, and such as would not have been endured by Charles III, or even Philip II.

It will complicate the relations of parties within the circle of the adherents of D. Alfonso, encourage the Carlists, animate the republicans, and add fuel to the smoldering discontent which already inflames the Spaniards.

* * * * *

I am, &c.,

C. CUSHING.

[Inclosure in No. 520.—Translation.]

Circular of the Papal Nuncio at Madrid addressed to the Spanish bishops.

[From "*El Pabellon Nacional*," September 13, 1873.]

APOSTOLIC NUNCIATURE.

MOST ILLUSTRIOUS SENOR:

SIR: Having come to the cognizance of the Holy See, the project of constitution which is intended to be proposed to the Córtes, the 11th article of the same, relative to the tolerance of worship, could do no less than attract the attention of the Holy Father. In consequence, the most eminent Cardinal Secretary of State, in the name of the Holy See, has addressed to the Spanish government, through its ambassador in Rome, a reclamation, and has directed me at the same time to communicate its contents to you, which I do without delay.

The 2d and 3d paragraphs of the above-mentioned article 11, as you must know, are couched in the following terms:

"Nobody shall be molested in the Spanish territory for his religious opinions, nor for the exercise of his respective worship, saving the respect due to Christian morality.

"Nevertheless, no other public ceremonies or manifestations will be permitted, but those of the religion of the State."

The substance and form of the paragraphs transcribed cannot but be a just cause of pre-occupation, and even of complaint on the part of the Holy See, whether they be considered with relation to the concordat of 1851, which possesses the force of law in the dominions of His Catholic Majesty, or whether there be taken into account the baleful consequence which the publication of this law would draw upon the Spanish nation, which from time immemorial has been in possession of the precious jewel of Catholic unity.

And, in effect, before all, it behooves us to take note, as a point not admitting of discussion, that neither to the government nor to the Córtes, nor to any other civil power of the kingdom, belongs the right to alter, change, or modify any of the articles of the Concordat without the necessary consent of the Holy See. This maxim of law should be strictly observed in every matter which is the object of a convention: with greater reason still it ought to be put in practice in treating of a fundamental point, such as is religion, the principal basis of every well-organized social fabric.

Nevertheless, the project of a new constitution expresses itself in such wise that there is at once apparent a very great difference between its provisions and the prescriptions of the first article of the Concordat.

The latter says:

"The Apostolic Roman Catholic religion, which, to the exclusion of all other worship whatever, continues to be the sole religion of the Spanish nation, shall be forever preserved in the dominions of His Catholic Majesty, with all the rights and prerogatives which it ought to enjoy, according to the law of God and the provisions of the sacred canons."

This article expressly declares and sanctions, as is obvious, the principle of religious unity. It recognizes that the sole and only Catholic religion is the religion of the State, and it excludes the profession of any other worship. The eleventh article of the new constitution, on the contrary, does not declare that the Catholic religion is the sole and only religion of the Spanish nation, much less does it express the exclusion of all other worship outside of the Catholic religion; but in prescribing in the second part that "nobody shall be molested in the Spanish territory for his religious opinion, nor for the exercise of his respective worship, saving the respect due to Christian morality," it explicitly authorizes the exterior exercise of any catholic (*sic*) worship, thus guaranteeing the liberty of worship by means of religious toleration against the letter and the spirit of the above-cited article of Concordat.

It can never be maintained that in the first of the articles of this solemn compact a simple fact should have been merely expressed, or, rather, a wish for the preservation of Catholic unity in the Spanish dominions, instead of contracting a genuine obligation to maintain it perpetually, and not to allow in the future the existence of other worships.

The mere reading of the article cited shows clearly that even though it comprises two parts, one incidental and the other principal, both are bound together in such a way that they can neither be divided nor have substantially any other meaning than the following: *that* religion shall be forever preserved in Spain which is *de facto* the religion of the Spanish nation.

Thus it is that, *de facto*, the Catholic religion is the only one of the said nation, to the exclusion of every other worship, and it is expressly announced as such in the incidental proposition of the article mentioned; therefore, when it was stipulated and agreed in the principal proposition that the same religion should be forever preserved, there was equal understanding and convention respecting the mode of preserving it, with exclusion of every other worship; and in the same manner as this exclusion was in the mind of the high contracting parties, so likewise did it enter into the obligation reciprocally contracted and expressed in the article. Otherwise, the principal proposition thereof would not correspond with the incidental one, and the religion whose stable maintenance is formally stipulated in the principal propositions would not be the same one which is indicated in the incidental proposition, wherein it is determined and characterized as the only and exclusive religion of the Spanish nation.

Nay, more: the incidental portion of the article would be completely inutile, and would have no *raison d'être*, which is at variance with the nature of a solemn stipulation, with the most grave importance of the matter which is the object of the convention, and with the wisdom and prudence of the high contracting parties.

Consequently, if the exclusion of every other worship had not entered into the views and the obligations contracted by the high contracting parties, that portion of the article to which reference is made would have been omitted in like manner, as no similar clause is found in the concordats stipulated between the Holy See and other Catholic powers, which, by reason of the *de-facto* existence in their territory of liberty or tolerance of worship, were not able to stipulate or express the exclusion of every worship outside of the Catholic religion.

But it is not merely the first article of the Concordat which is impaired by the project of the new constitution.

The second article, which was stipulated as the derivation from and consequence of the first, and which, therefore, renders clear and gives force to the meaning thereof, established and provided that education in the public or private schools, of whatever class, should in every respect conform with the doctrine of the Catholic religion; to which end it was likewise stipulated, that the bishops and other diocesan prelates, whose mission made it incumbent on them to watch over the purity of faith and customs, and over the religious education of youth, should encounter no impediment or obstacle of any kind in the exercise of this right and duty.

In the third article, besides positively securing to the prelates full liberty in the use of their faculties, and in the exercise of their pastoral functions, the Catholic Queen and her government promised to accord to them their powerful patronage and support, with all the efficacy and force of the secular arm, whenever they should have to oppose the malignity of such men as might attempt to pervert the minds and corrupt the customs of the faithful, or when they should have to impede the printing, introduction, and circulation of bad and noxious books.

Now, then, it being declared in the second paragraph of article 11 of the new constitution, that no one shall be molested in Spanish territory for his religious opinions and for the exercise of his worship, saving the respect due to Christian morality, it follows, as an unavoidable consequence, that even the teaching, as well public as private, of Catholic (*sic*) doctrines may be outside of the action of the law, and cannot be impeded or repressed either by the civil or the ecclesiastical power; or, what is the same, may remain implicitly authorized and positively admitted. This indubitably involves a manifest infraction of the second article of the Concordat, wherein, in the most positive words, it was solemnly agreed that public and private instruction in all

the schools, of whatever class and category, should be entirely in conformity with the doctrine of the Catholic religion. And even though, in virtue of the eleventh article of the new constitution, there be left outside of civil and ecclesiastical action only the private teaching of Catholic (*sic*) doctrines, it is difficult to comprehend how there could take place or subsist in its full integrity and extent the free exercise of the reciprocal duties and rights formally guaranteed to the bishops in the second article, above cited, of the Concordat, of watching over the purity of faith and of customs, and concerning the religious education of youth. Neither is it comprehended how the bishops can, with good result, invoke and expect the support and the defense of the civil power against the occult machinations and dark designs of the persons interested in perverting the minds and corrupting the customs of the heedless, as well as against the clandestine press and the insidious introduction and circulation of bad and noxious books.

The foregoing considerations being set forth, it is easy to foresee the baleful consequences which may flow from the 11th article of the new constitution in case it be adopted by the Cortes, especially as it is sought to introduce an ominous principle in an eminently Catholic nation, which, at the same time that it spurns the liberty or tolerance of worship, begs with a choking voice (*á voz en cuello*) that there be re-established in Spain her traditional religious unity, incarnate, if it be allowable to speak thus, in her history, in her customs, and in her glories.

And let it not be forgotten that the course of the preceding governments in ignoring her religious unity was one of the causes of the civil war which still sustains itself in some provinces of the kingdom. Because of all this, and in view of the melancholy consequences which have crept in, the Holy See has deemed it a most stringent duty to propose to the consideration of the Spanish government these brief considerations urging it not to permit the introduction of the 11th article in the project in question, because otherwise it could compromise the so-much-desired harmony between the Holy See and the Spanish government.

All of which I have the honor to acquaint you with, in fulfillment of the orders of his eminence the Cardinal Secretary of State, in order that it may serve as a guide to you in appreciating the importance with which the Holy See regards so grave a matter.

I improve this occasion to reiterate to you the sentiments of my most distinguished consideration, with which I am, your most attached and faithful servant, who kisses your hand.

MADRID, August 25, 1875.

JOHN,
Archbishop of Chalcedony, Apostolic Nuncio.

To the Rev. Bishop of —.

No. 543.

Mr. Cushing to Mr. Fish.

No. 529.]

LEGATION OF THE UNITED STATES,
Madrid, September 17, 1875. (Received October 5.)

SIR: The circular of the papal nuncio, transmitted with my No. 520, of the 14th instant, continues to be the dominant pre-occupation of political circles here and of the government. I inclose translation of a short article of the *Imparcial*, which points to the policy of the United States in the matter of religious confessions as the only true and wise one, and contrasts it with the trouble which not only Catholic countries like Spain have in following a different course, but also Protestant countries like Prussia and the Protestant cantons of Switzerland. I infer from internal evidence that the article is by D. Juan Valera, one of the most eminent authors of the present day in Spain, and who is among the contributors to the *Imparcial*.

I have, &c.,

C. CUSHING.

[Inclosure in No. 529.—Translation.]

THE ONLY SOLUTION.

[From "*El Imparcial*," September 17, 1875.]

Although the conservative parties strenuously deny it with notable pertinacity there is not, nor can there be, outside of the democratic doctrine, a plausible solution for the greater part of the conflicts which in our times disturb the peace of nations or embarrass the action of governments.

What has occurred with respect to the circular of the nuncio is an additional proof of this truth, which we take pleasure in recording. In what concerns the relations between the church and the state, in the conflicts which arise between the temporal authority and the religious element, to go far away from the democratic doctrine, through the paths followed by ultramontanes and absolutists, is to go completely astray. Let us see, if this be doubted, where and how religious conflicts occur. Do they occur in the United States? No; because there the church is an association, constituted, it is true, for the realization of the highest of human aims, but, in fine, an association with which the administrations have no other relations than those which exist between them and any other association whatever, that of protecting its liberty, affirming its independence, and assuring its respect to the laws of the land. There the church is free mistress of her own destinies and apt to realize them as she may deem most opportune. There the state is sovereign, lives in the integrity and fullness of its rights, and the civil power cannot be confronted, as among us, through a false conception of the two powers, by a religious power as high as itself, as sovereign as itself, and between which two powers it is more than difficult, it is impossible, that daily differences shall not arise. Do conflicts occur in Germany? Yes; because the imperial government, which has had courage enough to fix the limits of the religious sphere of action in recent laws, lacks what is needful to enable it to forego intervention in the Catholic and Protestant churches, and so leave them to live free and independent without its tutelage, which is harmful to religious interests, without its tutelage, which is a cause of embarrassment and disturbance to the general peace. Do conflicts occur in Switzerland, in Italy, in Belgium, in Russia? If so, there is no room for assigning them to other causes. The state seeks to protect the church, and in exchange for this protection it injures the liberty of the church itself and the rights of all its citizens. Where shall we seek a more fecund source of conflicts? The ministry presided by General Jovellar, being hardly constituted, a grave event demands its attention and distracts it from more patriotic and higher objects. The representative in Madrid of a foreign sovereign has just issued a circular to religious authorities who are exercising their mission in Spain, which is contrary to the policy of the government, and in the last paragraph of which there is contained an assertion which evidently favors the cause of an insurrection which has for some time existed in our country. This is the case, such as it presents itself, stripped of its religious relations and of its connections of a distinct character. What is to be done with the nuncio of the Pope? A democratic government would have done nothing more than give him his passports as the envoy, which he is, of a foreign sovereign, and bring before the ordinary tribunals the prelates who second his attitude, if, in seconding it, they infringe the laws. But the prerogatives of Rome exist, and the author of the act in question is the nuncio of the Pope. He represents a church protected by the state. What is to be done? We comprehend that the conflict is serious, but for us there is only one possible answer—to proceed now as energy commands, as the national decorum and the prestige of the government counsel, and, by and by, when the Cortes open, to add to the constitution an article which shall make the recurrence of these conflicts impossible, by assuring alike the indisputable sovereignty of the state and the liberty of the church; that the church be set apart from the burning questions of policy, far from governments and parties, since its mission is not among them. This is the formula which most befits its interests. At the same time, against those who, under the cloak of religion, endeavor to perturb communities and disturb the good order of nations, the civil powers would find in this formula a most useful weapon. Let us remember the words of Christ; "Render unto Cæsar the things which are Cæsar's, and unto God the things which are God's." For many centuries the priesthood has asked, and even taken, as though it were God's, somewhat more than belonged to His priests. It is time now that Cæsar claimed his share.

No. 544.

Mr. Mantilla to Mr. Fish.

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
Washington, January 1, 1875. (Received January 2.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has received orders from the new government established in that country to inform the Government of the United States that Prince Don Alfonso de Borbon y Borbon has been proclaimed King of Spain, with the title of Alfonso XII, by the most powerful elements of the country, with the general assent of the armies of the peninsula and of the colonies, and with the adhesion of the towns.

On the peaceful accomplishment of this highly important change, which opposes a popular and constitutional monarchy to the absolute monarchy, by divine right, which the fanatical Carlists have, for half a century, been endeavoring to raise upon the ruins of civilization, of liberty, and of progress, unsuccessfully, it is true, but with a perseverance and an earnestness worthy of a better cause, a ministerial regency has been established, in accordance with the provisions of the Spanish constitution, as follows:

President, Cánovas del Castillo.
 Minister of state, Don Alejandro de Castro, and the Marquis de Molins *ad interim*.
 Minister of grace and justice, Don Francisco de Cárdenas.
 Minister of war, Don Joaquin de Jovellar.
 Minister of finance, D. Pedro de Salaverria.
 Minister of marine, the Marquis de Molins.
 Minister of government, D. Francisco Romero Robledo.
 Minister of fomento, (encouragement of commerce, agriculture, &c.,) the Marquis de Orovio.
 Minister of the colonies, D. Adelardo Lopez de Ayala.

This movement having been seconded by the army of the north, the general-in-chief of the latter has addressed to the new government the telegraphic dispatch of which I have the honor to inclose a copy to your excellency, and the acting minister of state informs me that the event of which I have the honor to inform the Government of the United States has been hailed at Madrid and in all the provinces with the same enthusiasm as it has been by the army.

The undersigned avails himself, &c.,

ANTO. MANTILLA.

[Inclosure.—Translation.]

The General-in-Chief of the Army of the North to the President of the Ministerial Regency.

[Telegram.]

LOGROÑO, 31.

In the name of this army, I congratulate Your Excellency personally, and I am happy to salute you with the highest respect. As we all rally under the flag of the legitimate monarchy, represented by Don Alfonso XII, permit me to give expression to the fervent desire of the Army of the North, that that flag may henceforth be, not the ensign of a party, but the emblem of the regeneration of our country, and the *labarum* of all Spaniards who love order and liberty alike.

CORRESPONDENCE RELATING TO THE STEAMER
VIRGINIUS.*

No. 545.

Rear-Admiral Scott to Captain Whiting.

UNITED STATES FLAG-SHIP WORCESTER,

Key West, December 14, 1873.

SIR: In accordance with the Navy Department's instructions, copies of which are herewith inclosed for your guidance, you will proceed with the United States steamship Despatch to Bahia Honda, Cuba, on the night of the 14th instant, and there receive the steamer "Virginus," as directed.

You will take from the Pawnee a crew for the Virginus, and on receiving her place Lieut. A. Marix in command, and order him to take her to Tortugas, accompanying her with the Despatch, and giving such assistance as may be necessary.

On arriving at Tortugas, you will place Lieut.-Com. D. C. Woodrow, of the Ossipee, in command of the Virginus, and such other officers as you may deem necessary to take her to New York, using every exertion to put her in proper condition for the voyage. Direct the officer in command to proceed direct, and in no event to touch at any port on the way, unless compelled by extreme necessity. You are authorized to take from the Ossipee any articles of stores or provisions that you may deem necessary for the Virginus, and when she is ready for sea order Commander Walters, commanding the Ossipee, to convoy her to New York with all dispatch, and there report, as directed by the Department's instructions.

The Department desires to be informed as soon as the Virginus is in our possessions. You will, therefore, advise me of the fact as early as possible.

To your good judgment and energy are intrusted all details in carrying out promptly the Department's instructions.

Wishing you a pleasant trip,

Respectfully,

G. H. SCOTT,

Rear-Admiral, Commanding

United States Naval Force, North Atlantic Station.

Capt. W. D. WHITING, *U. S. N.,*

Commanding United States Flag-Ship Worcester,

and Chief of Staff, Key West.

No. 546.

Captain Whiting to Rear-Admiral Scott.

UNITED STATES STEAMER DESPATCH,

(AT SEA NEAR TORTUGAS; FLA.,)

December 17, 1873.

SIR: I take pleasure in informing you of my arrival at this anchorage, accompanied by the steamer Virginus, which I am now preparing for

*Continued from Foreign Relations, 1874, p. 1117.

sea with all dispatch. Leaving Key West at 10 p. m. of the 14th instant, we arrived off the harbor of Bahia Honda, Cuba, at 1 p. m. of the 15th instant. No pilot appearing, the vessel was run in by Lieutenant-Commander Rodgers to a safe anchorage near the *Virginus*, lying off Fort Difuntos, midway in the bay. Two miles farther in, at the southern end of the bay, lay a Spanish gunboat, from which a boat put off and boarded the *Virginus*, till then without colors, and at — p. m. the United States ensign was hoisted at her peak. Shortly after Commander Cámara paid a visit of ceremony to this vessel, informing me that he had instructions to turn over to the accredited official of our Government the *Virginus*, then in his charge, asking me at what hour it would be convenient on the 16th to turn her over. Assured by me that a time most convenient to him would be agreeable to me, the hour of 9 a. m. was fixed, at which time, with the American flag flying at the flag-staff, Commander Manuel de la Cámara, of the Spanish navy, turned over the *Virginus* to the authorities of the United States, receiving my receipt for her.

I found her to have about fifty tons of soft coal on board, and immediately transferred the officers and crew brought over for her.

After examination of the engine and boilers, the fires were started. Provisions and the necessary stores were rapidly placed on board. At 1 p. m. both vessels hove up their anchors and started, but the *Virginus* was obliged to anchor again, before getting out of the harbor, on account of a derangement of her engines. Ascertaining that she could not be put in running-order for several hours, she was taken in tow by this vessel, and at 3 p. m. left the bay of Bahia Honda.

I close this dispatch to send it by the *Fortune*; deeming it best, as we need no assistance, to communicate with you at once.

The *Virginus* has steam up now, and we will drop the tow.

I desire to state that, in carrying out my orders, I met with extreme courtesy from Commander Cámara, who tendered any assistance in his power.

Respectfully,

WM. D. WHITING,
Captain and Chief of Staff.

Rear-Admiral G. H. SCOTT,
Commanding North Atlantic Station.

No. 547.

Lieutenant-Commander Woodrow to Mr. Robeson.

UNITED STATES STEAMER OSSIPPEE, (3d rate),
OFF THE BATTERY, NEW YORK,
December 30, 1873.

SIR: I have the honor to report that in obedience to an order from Admiral G. H. Scott, a copy of which is herewith inclosed, I took command of the steamer *Virginus* on the evening of December 17, off Dry Tortugas, relieving Lieutenant Marix.

Ensign George A. Calhoun and Second Assistant Engineer N. H. Lamden, together with three machinists, two boiler-makers, six seamen, E. F., six ordinary seamen, E. F., eight seamen, and fourteen landsmen composed her complement. Second Assistant Engineer Absalom Kirby and Midshipmen Underwood and Tyler subsequently joined the vessel.

I found her in a very filthy condition, with over twenty tons of ashes

and dirt in her fire-rooms, and her crew exhausted by constant work since leaving Bahia Honda.

She was leaking under some cement in her fore-foot, and had water in all her compartments. She had about seventy tons of bituminous coal on board, but no other stores. During the night I received stores from the Ossipee in the different departments, and a working-party of fifty men, who coaled ship from the schooner Mattie A. Hand.

Next morning, finding that the water had gained two feet in the fire-rooms, I stopped coaling and used all hands pumping and bailing out the ship. At 8 a. m. the water was up to the grate-bars, with four feet of water in forward compartment and two feet six inches in after one.

During the day I received assistance from the Ossipee in the way of working-parties, to help clear ship of water, repack stuffing-boxes, and overhaul pipes and strainers about engines, and to repair the bunks in fore-castle and cabins. Capt. William D. Whiting was on board during the day, and examined the leak in her forward compartment, with Chief Engineer King and myself.

This was the only leak of any consequence that we could find in the ship. At 4 p. m. the water was so much reduced that I was able to start fires in forward boiler, and at 8.15 p. m. in after boiler.

We were then riding by a hawser from the Ossipee, and as soon as steam was reported I backed the engines, and gained so much on the water with the main bilge-pumps that Captain Whiting expressed himself as satisfied that the *Virginus* was in a fit condition to go north, and left the ship. Shortly after we went to sea in tow of the Ossipee. During that day, and as long as the sea was comparatively smooth, I kept the water down with the main engine-pumps. As we proceeded north, and the sea became rougher, the rivets in one of her bow-plates became loose, as did also an old patch on the next plate abaft, and she leaked so badly that I had to plug up the limber-holes in her forward bulk-head to keep fire-rooms clear.

During the forenoon of the 22d instant I threw overboard her port bower anchor and over twenty tons of old iron, wire rigging, &c., from her fore hold, and shifted the coal aft.

On the afternoon of the 23d instant I had from eight to ten feet of water in the forward compartment, and so much water in the fire-rooms as to endanger putting out the fires, and I signaled to the Ossipee not to go farther north, that there was a dock at Charleston.

She answered, "We are bound for Charleston," and changed her course to the southward. The increased speed enabled me to reduce the water in her fire-rooms, but I felt no confidence in being able to keep it in check, as the pumps were constantly breaking down and getting choked up, requiring sometimes an hour or more to repair them.

The pressure of water on the forward bulk-head was so great that it bulged out about six inches.

Besides this, my men were worn out, and had no place to sleep, as their bunks and bedding were drenched. The bows were working so much that the bunks in the fore-castle came adrift from the ship's side.

At 3 a. m., 24th instant, the crown-sheet of middle furnace after boiler gave out, and I had to haul fires from that boiler. Shortly after several blisters were reported in forward furnace, and at daylight I signaled condition of boilers and state of water to the Ossipee.

Chief Engineer King then came on board and examined the boilers, and when he returned to his ship we proceeded on up the coast, keeping in smoother water. That afternoon two furnaces in forward boiler gave out, although the steam-pressure was less than five pounds.

On Christmas morning the sea and wind increased, and the Ossipee ran in under the lee of Cape Fear and anchored, and as the water commenced to gain in fire-rooms I backed the Virginius's engines, but owing to want of steam I could not turn the engines over fast enough to do much good, and the water gained slowly until 5 a. m. on the 26th instant, when the fires went out and the donkey-pump stopped. The hand-pump was broken and could not be repaired with any means at my command.

I signaled to the Ossipee to haul us up and take us off immediately, as the fore compartment was full of water up to a foot of the spar-deck. There were six feet of water in fore hold, and it had risen about six inches above the grate-bars in forward fire-room. The after compartment was dry, owing to the ship being so much down by the head.

When the Ossipee's boat came under my bows the sea was very rough and it was blowing a gale of wind in squalls from the northward and eastward.

I succeeded with great difficulty in getting the men and officers transferred to the Ossipee, and deemed it inexpedient to attempt to save the bags and hammocks, on account of the great danger.

At 4.17 p. m., 26th instant, the Virginius sank in 8 fathoms water, her fore cross-trees above water. A pork-barrel buoys the end of her hawser and marks her position, in latitude $33^{\circ} 44' 10''$ N., longitude $77^{\circ} 59'$ W., Smithville light bearing N. $\frac{3}{4}$ W., (p. c.,) and end of island N. N. E., (p. c.)

Inclosed herewith please find Second Assistant Engineer Kirby's report on the condition of boilers and engines. I also have the honor of forwarding the log of the steamer Virginius from December 16 to December 26, inclusive.

Very respectfully, your obedient servant,

DAVID C. WOODROW,
Lieutenant Commanding, U. S. N.

Hon. GEO. M. ROBESON,
Secretary of the Navy.

Respectfully forwarded.

JOHN WATTERS, *Commander.*

No. 548.

Mr. Robeson to Rear-Admiral Davis.

NAVY DEPARTMENT, *January 3, 1874.*

SIR: I transmit herewith a precept addressed to you, as president of a naval court of inquiry, ordered to convene at the Navy Department on the 7th instant, for the purpose of inquiring into the causes of the foundering of the steamship Virginius, recently delivered to the United States by order of the government of Spain.

Respectfully, &c.,

GEO. M. ROBESON,
Secretary of the Navy.

Rear-Admiral CHARLES H. DAVIS, U. S. N.,
Washington, D. C.

No. 549.

Mr. Robeson to Rear-Admiral Davis.

To Rear-Admiral CHARLES H. DAVIS, U. S. N.,
Washington, D. C. :

By virtue of the authority contained in the "act for the better government of the Navy of the United States," approved July 17, 1862, I hereby appoint Rear-Admiral Charles H. Davis, president, Rear-Admiral John L. Worden and Commodore John C. Howell members, and Capt. Stephen B. Luce judge-advocate of a court of inquiry, which is ordered to convene at the Navy Department on Wednesday, the 7th day of January, A. D. 1874, for the purpose of inquiring into the causes and particulars of the foundering, on or about the 26th day of December, in the year 1873, off Cape Fear, of the steamship *Virginius*, recently delivered by the Spanish authorities at Bahia Honda, Cuba, into the possession of the United States.

The court will inquire—

1st. Into the exact condition of the *Virginius* in every department when she was delivered to the United States officers at Bahia Honda on the 16th December, 1873.

2d. As to what was necessary to be done to her to prepare her to go to the Tortugas.

3d. As to what actually was done to her before she left Bahia Honda.

4th. As to her condition during the passage to the Tortugas.

5th. As to her condition when she arrived at the Tortugas.

6th. As to the nature and extent of the examination that was made of her condition after her arrival at Tortugas.

7th. As to what was necessary to be done to her to prepare her to go to New York.

8th. As to what actually was done to her at the Tortugas to prepare her for her passage to New York.

9th. As to her condition when she left the Tortugas, and afterward, daily, during her passage toward New York, until she finally sunk.

10th. As to the immediate and remote causes of the sinking of the said vessel.

And, finally, they will report fully to the Navy Department upon all the above points, in order that all the facts in connection with the sinking of the *Virginius* may be clearly established, and they will also recommend any further proceedings which they may deem necessary in the case.

Given under my hand, at the Navy Department of the United States, this 3d day of January, in the year 1874.

GEO. M. ROBESON,
Secretary of the Navy.

No. 550.

Report of the naval court of inquiry.

NAVY DEPARTMENT,
Washington, D. C., January 16, 1874.

The court of inquiry ordered to convene at the Navy Department on Wednesday, the 7th day of January, A. D. 1874, for the purpose of in-

quiring into the causes and particulars of the foundering, on or about the 26th day of December, in the year 1873, off Cape Fear, of the steamer *Virginius*, recently delivered by the Spanish authorities at Bahia Honda, Cuba, into the possession of the United States, has the honor to submit the following report :

In order to conform to the injunctions and to follow the distinctions of the precept, this report is distributed under four heads, viz :

First. Replies to the separate inquiries contained in the precept, numbered from one to eight.

Second. The condition of the *Virginius* at the time of her leaving the Tortugas, and her daily condition subsequently up to the time of her sinking.

Third. The immediate and remote causes of the sinking of the *Virginius*.

Fourth. The final report upon the above points, and upon the question of further proceedings.

The burden of evidence goes to show that "the exact condition of the *Virginius*, in every department, when she was delivered to the United States officers at Bahia Honda, Cuba, on the 16th December, 1873," was as follows :

In the engineer's department the engines were in working-order, but in indifferent condition. They needed cleaning, overhauling, repacking, &c. The auxiliary pump was out of order, and needed repairs. The furnaces were wooded and coaled, ready for firing, and the boilers were run up, preventing their thorough examination. Several tubes were plugged up in each tube-box ; the boilers were ten years old, and bore the appearance of having been much neglected ; the hand-pumps needed overhauling. In the hull a leak was discovered in the eyes of the ship, which had at one time been stopped by cement. This cement, by the working of the vessel, had become partially detached from the hull, and gave admission to a small stream of water. There was water in the after compartment, fire-room, bilges, and forward compartment—about 2½ feet in the latter : and in the fire-room the water was above the floor-plates. The *Virginius* had not been pumped out for the previous twenty-four hours. Some sixty tons of bituminous coal had been dumped into the hold, and there was also a quantity of old iron and wire rigging in the fore hold.

In the fire-room was a quantity of ashes, cinders, and *débris*, estimated at fifteen tons. The condition of the *Virginius* was filthy in the extreme. All the furniture, except a few chairs, had been removed ; no stores save the coal referred to were on board. Of the two compasses, one was in fair condition ; the chain steering-gear was old and worn, and the wheel needed repairs. There was one sail, a jib, on board.

Second. "As to what was necessary to be done to her to prepare her to go to the Tortugas."

It was necessary to provision her, make a few minor adjustments of the machinery, to fill the boilers, overhaul the steering-gear, repair the wheel, examine the compasses, bend the only sail on board, clear the fire-room of ashes, &c., pump the ship out, put in order the auxiliary and donkey pumps, and examine the vessel for leaks.

Third. "As to what actually was done to her before she left Bahia Honda."

All the above was actually done, except putting in order the pumps. The auxiliary pump was repaired during the passage to the Tortugas.

Fourth. "As to her condition during the passage to the Tortugas."

Her condition was fair. In attempting to steam out of the harbor,

the condenser became heated and the engines were stopped. The Despatch then took her in tow. (The *Virginus* got under way at 1.30 p. m., December 16, 1873.) The hand-pumps were kept constantly at work. At 1.30 a. m. of the 17th December the *Virginus's* engines were got into working-order and were started. At 7.45 the tow-lines from the Despatch parted, and the *Virginus* proceeded under steam, without being further towed, to the Tortugas. The engines worked well after they were started at 1.30 a. m., and the steam-pumps kept the leak under. The weather was fine, the sea smooth.

Pressure of steam carried, from twenty to twenty-two pounds.

At 1.50 p. m., December 17, the *Virginus* anchored at the Tortugas. Fifth. "As to her condition when she arrived at the Tortugas."

She was in the same condition as when she left Bahia Honda, except that the auxiliary pump had been repaired, and that some minor repairs had been made to the engines on the passage.

Sixth. "As to the nature and extent of the examination that was made of her condition after her arrival at Tortugas."

On December 18, 1873, Capt. W. D. Whiting, Lieut. Com. D. C. Woodrow, and Chief Engineer W. H. King made an examination of the hull and engines of the *Virginus*. A small leak was discovered in the bows, on the inside and near the stem, which appeared to have been at one time stopped by filling in with cement. At the time of the examination the cement was partially detached from the shell of the vessel, and water was welling in over and under the cement.

In the forward compartment the hull was much rusted, the iron plates thin, and covered with heavy rust scales; there was a plate in the port bow, about ten feet abaft the stem, which had a patch on it. There was no evidence of leak in the starboard bow. The engines were also examined and found to be in fair working condition. The donkey-pump was found much out of order, and the stuffing-boxes needed repacking.

The boilers were run up and could not be thoroughly examined. The passage from Bahia Honda had developed no leaks nor any especial weakness, as twenty-two pounds of steam had been carried.

So far as was practicable, the whole vessel had been searched for leaks, but none other than the one in the bow had been discovered.

Seventh. "As to what was necessary to be done to her to prepare her to go to New York."

With the evidence of her successful passage from Bahia Honda to the Tortugas, and considering the apparent unimportance of the leak in the bow, which the steam-pumps had easily kept under, all that appeared necessary to be done to the *Virginus* was to prepare her for sea by packing stuffing-boxes, reeving new wheel-chains, furnishing her with the necessary stores and provisions, repairing and fitting her boats, and repairing the donkey-engine. This statement is based upon the evidence before the court.

Eighth. "As to what actually was done to her at the Tortugas to prepare her for her passage to New York."

Everything noted in the answer to the seventh in interrogatory, with the exception of repairing the donkey-pump.

Ninth. "As to her condition when she left the Tortugas, and afterward, daily, during her passage toward New York, until she finally sank."

In the opinions of the officers who have appeared before the court, as expressed in their evidence, the *Virginus*, when she left the Tortugas, was in a sufficiently seaworthy condition to make the passage to New

York, provided no very bad weather supervened. The daily condition of the *Virginus*, as shown by the evidence, was as follows:

The *Virginus* steamed from the Tortugas in tow of the *Ossipee* on the 19th day of December, 1873; the weather was fine, and the engines turned over slowly, to avoid running upon the *Ossipee*. The steam-pumps kept the leak under. The leak in the bow did not apparently increase, although it was observed that the vessel worked forward.

December 20, 1873.—Weather fine; sea smooth; wind from the northward; the leak was kept under by the steam-pumps; *Virginus* stopped twice to repair eccentrics; average pressure of steam, 8 pounds.

December 21, 1873.—Weather fine; wind from north and east, and wind and sea moderate; *Virginus* leaking forward more than at any previous time; water gained in forward compartment; the holes in water-tight bulk-head of forward compartment were plugged up; strainers on bilge-pumps became choked; water gained in fire-room; got the donkey-pump in working-order, and the water was cleared from the fire-room; the plugs were removed from the forward bulk-head to allow the water to run aft to the pumps; during the night the wind and sea increased.

December 22, 1873.—Weather cold and rainy; wind fresh from north and east; sea rough; ship rolled and pitched moderately. The working of the ship's bows was quite apparent; the engines were turned over slowly, to avoid fouling the *Ossipee*.

The *Virginus* leaked freely, and the forward compartment gradually filling. The steam and hand pumps were worked constantly. During the night it blew heavily, in squalls. Water in forward compartment, $4\frac{1}{2}$ feet. Average steam-pressure, 14 pounds.

December 23, 1873.—Weather cloudy and rainy; a moderate gale from the north and east was blowing; the sea was rough. During the morning the water gained fast; six feet in the forward compartment, and nearly up to grate bars in the fire-room. Steam and hand pumps were constantly worked. At 8 a. m. signal was made to the *Ossipee*, "Making water badly; go ahead faster, so that we can work our pumps," (move quickly.) Shortly after, *Ossipee* was signaled, "Stand in toward land." At 9.30 a. m. *Ossipee* changed course to northwest by west and made sail. The port anchor, wire rigging, and old iron in the fore hold were thrown overboard to lighten the vessel forward; coal was shifted from fore to aft hold; a sea-anchor was rigged, under the lee of which the boats might ride in case of necessity; the boats were also provisioned and watered. At 5.30 p. m. one fire, under forward boiler, was extinguished by water; *Ossipee* was signaled, "Will wave red lantern to-night, in case we need assistance;" also, "Water rising in fore hold; can go no farther north. Dock in Charleston." *Ossipee* replied, "Is water rising in fire-room?" Was answered, "Yes, six inches." *Ossipee* signaled, "Can you hold on until daylight?" Was answered, "Yes, if forward bulk-head holds out." *Ossipee* signaled, "We are bound for Charleston." During the night the wind moderated, and the pumps gained on the leak, in consequence of the increased speed of the engines and the quicker working of the pumps, the *Ossipee* being under steam and sail standing toward the land, and going faster than she had previously been going. During the night 8 feet of water in forward compartment; *Virginus* pitched heavily and steered badly.

December 24, 1873.—Weather cold and thick; wind from north and east, moderate, with moderate sea. At 3 a. m. crown-sheet of after boiler gave way, and fire was hauled from under the boiler; the fact was signaled to the *Ossipee*. At 7.20 Chief-Engineer King, of the *Ossipee*,

went on board the *Virginus* to inspect the boilers; he left at 8.20, and 8.25 the *Ossipee* signaled, "We will continue up the coast." At this time the *Virginus* was about forty-three miles from Charleston. The steam and hand pumps were constantly worked; officers and men were nearly exhausted. During the afternoon blisters were discovered on the forward boiler; hauled fires in one furnace, and reduced steam to 2½ pounds. During the night the wind and sea increased, and the leak gained.

December 25, 1873.—Weather cold and rainy; wind from north and east, blowing a moderate gale; sea rough. At 6.15 a. m. the towing-hawser parted, and the *Virginus* steamed toward the land, the *Ossipee* leading. At 8 a. m. a cast of the lead was got in eight fathoms; land was sighted, bearing north by east, distant about fifteen miles. At 8.30 the *Ossipee* anchored, and sent end of hawser to the *Virginus*. The *Virginus* commenced to back her engines in order to work the steam-pumps. The leak gained fast during the day. The water was 9 feet in the forward compartment, 2 feet in the fore hold, and 8 inches in forward fire-room. Signal was made to *Ossipee*, "Haul us up and take us off; can do nothing more." At 5 p. m. the crew of the *Virginus* went aft, and asked that the ship might be abandoned, as they were entirely exhausted, having been wet through for several days, and having had no place to sleep in.

During the afternoon the donkey-pump gave out. At 6 p. m. it was repaired and working, but very indifferently. Stopped backing the engines, as, from the low pressure of steam and the increase in the leak, they were of little or no service; they could not be backed rapidly enough.

At 7 p. m. *Virginus* signaled, "Can hold out until morning." During the night the wind and sea increased, and the water gained steadily; 5 feet in fore hold and nearly up to the grate-bars in forward fire-room. The *Virginus* was slowly sinking by the head.

December 26, 1873.—Weather cloudy, with rain. A gale was blowing and heavy sea running. At 3 a. m. signal was made to *Ossipee*, "Water gaining fast; fires nearly out; haul us up." The bows of the *Virginus* worked so badly that the bunks in the top-gallant fore-castle fell down. At 5 a. m. the water rose above the grate-bars and fires were extinguished. Signal was made to the *Ossipee*, "Haul us up and take us off." At 6 a. m. the wind moderated; the crew had been employed bailing with buckets, but at this time ceased, as further efforts were useless.

The *Ossipee* hauled the *Virginus* to within fifty fathoms, and dropped a cutter down to her to receive her crew. By — a. m. the *Virginus* was abandoned, the officers and crew losing nearly all their personal effects, but saving the chronometer and nautical instruments.

At the time of abandoning the *Virginus* the forward compartment contained 10 feet of water, the fore hold 5 feet, and the water was five inches above the grate-bars in the fire-room.

At 4.17 p. m. the *Virginus* sank, bows first, in eight fathoms of water.

Tenth. "As to the immediate and remote causes of the sinking of the said vessel."

The immediate causes of the sinking of the *Virginus* were stress of weather, the increased leaks caused thereby, the giving out of the boilers, and the inability to work the pumps effectively, in consequence of the failure of the steam-power.

The remote causes were the weakness of the hull, resulting from age and neglect, and the deterioration of the boilers from the same causes, which deterioration was not fully appreciable when the examination was made of them at the Tortugas.

No. 551.

Final report of the naval court of inquiry.

FINAL REPORT.

Finally, the court has the honor to report that the preceding statements comprise all the circumstances and points enumerated in the precept in a manner so full, plain, and comprehensive that all the material facts connected with the sinking of the *Virginus* are thereby clearly established.

Beyond these material facts it is made apparent by the testimony of the superior officers, including the chief engineer, that zeal in the performance of duty led them to rely too confidently upon the permanence of the existing condition of the hull and the actual working of the machinery exhibited in the passage from Bahia Honda to the Tortugas, and during the first three days out from that port.

The court, however, satisfied that their conduct was becoming and praiseworthy throughout, does not deem any further proceedings in the case necessary.

C. H. DAVIS,
Rear-Admiral and President of the Court.
S. B. LUCE,
Captain United States Navy, Judge-Advocate.

No. 552.

Mr. Fish to Admiral Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, March 28, 1874.

SIR: I have the honor to transmit herewith for your consideration a copy of the report* of a naval court of inquiry convened under the direction of the President, by an order of the Secretary of the Navy, promulgated on the 3d of January last, to inquire into the causes of the foundering of the steamer *Virginus*, then recently delivered to the United States by order of the government of Spain.

The report contains all the evidence, documentary and oral, submitted to the court of inquiry in relation to the subject of the inquiry on that occasion.

Accept, sir, &c.,

HAMILTON FISH.

No. 553.

Admiral Polo de Bernabé to Mr. Fish.

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
December 30, 1873. (Received December 30.)

In obedience to instructions received from his government, the undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to ask the attention of the honorable Secretary of State of the United States to the matter of entering upon the consideration of the damages and injuries caused to Spain by the acts of the *Virginus*,

*See Nos. 550, 551.

which vessel was fitted out in the port of New York, in the year 1870, for the purpose of forming part of an expedition organized in the United States against the Spanish government and its subjects in the island of Cuba. It could not have been otherwise than granted, in the opinion of the undersigned, that the expedition or voyage undertaken by this vessel, in October of that year, was not of a purely commercial nature, as this is understood in international jurisprudence, and by the municipal laws of the United States, but that in view of the articles which she carried, her character was an essentially military one.

If credit is to be given to the testimony of her captain, Shepperd, and to the chief of staff, Varona, who was on board, with the so-called General Quesada, as, in view of its importance, must be done until it shall have been refuted or destroyed, the *Virginus* left the jurisdiction of the United States for the purpose of engaging in piratical acts, which purpose it soon undertook to carry out on the high seas.

From the sworn statement of Shepperd, which was transmitted to the Department of State with a note from this legation, bearing date of the 10th instant, it appears that proposals of a piratical character were made to him in New York at the house of one José Maria Mora, and both Shepperd and Varona testify that the attempt was made to act on the high seas in accordance with said proposals, and that this attempt was only given up when it was discovered that the vessel which they were about to capture carried the English instead of the Spanish flag.

It is hereby clearly shown that there was a purpose, *to which a beginning of execution was given*, to commit depredations on the high seas upon Spanish property with a vessel which did not legally carry the flag of any nation, which, according to the laws of nations, constitutes the *crime of piracy*.

It is known, moreover, that those who fit out illicit expeditions like that of the *Virginus* seek to invest them with the character of legitimate commercial transactions, in order thus to conceal the criminality of their designs. This occurred in the case of the *Virginus*; only in this instance the deception has become patent.

From the first moment everything connected with the said vessel was a pure fraud. The purchase was made of the Government of the United States with a criminal intent. The money which was paid for it was acquired in the *United States* by the enemies of Spain in contravention of the laws of what would be required by the friendly relations existing between the two nations. The certificate of her registry was obtained at the New York custom-house through perjury on the one hand and an abuse of confidence on the other from the customs officials.

Her papers and crew-list were false, inasmuch as they concealed the real destination of the vessel, giving a false one in its place. Her clearance was not valid for many reasons, among others because her manifest did not contain a true statement of the whole cargo placed on board by Quesada. The voyage on which she sailed at the time referred to was conceived and executed in all its details by fraudulent designs and practices.

It is not under such circumstances that the operations of legitimate commerce are undertaken and carried out, nor is it possible to allow the transportation of munitions of war to open ports, under cover of such a disguise, in the possible interest of an insurrection existing in any section of the country to which such ports belong. This is a practice which, in the light of certain doctrines, whose inconsistencies are, perhaps, not observed, the most that they do is to grant it a negative tolerance, but they by no means encourage it.

It is true that the *Virginus* did not carry a large cargo of arms when she left New York, but she sailed with the intention of receiving on the high seas, near Curaçoa, according to agreement, a considerable cargo of munitions of war, which was conveyed to her by the schooner *Billy Butts*, which likewise left the port of New York for the purpose mentioned. If it was thought that this operation was one of legitimate commerce, why was not this cargo taken in in the port of New York?

When the *Virginus* left the port of New York it is possible that she had not, at that moment, a sufficient number of recruits on board in order to constitute her a war-transport, but she carried the superior officers, the principal persons who, both in the United States and in Cuba, busy themselves in promoting the insurrection.

Of much more importance were those persons, in view of the aid that they were able to lend to the insurrection and to its acts against the legitimate government of Cuba, than were Messrs. Mason and Slidell in reference to the United States and the Confederate States when they were taken by an American cruiser from on board the *Trent*.

The first expedition of the *Virginus*, in conjunction with the *Billy Butts*, under command of the so-called General Quesada, was of a military character, as is shown by the testimony which the undersigned has already had occasion to send to the honorable Secretary of State, to say nothing of other circumstances which likewise prove it, and it is undeniable that it had its commencement and origin in the United States.

Of the same nature was the last attempt, in which the said vessel was taken by the *Tornado*, inasmuch as her principal officers, such as Ryan, del Sol, and others, were in the pay and employ of the Cuban insurrection, and they, in their turn, paid and employed other persons within the jurisdiction of the United States to take part in a military expedition which was to sail from New York and other points of the United States, they going on board of the *Virginus* by the steamer *Atlas*, and by other means, in order finally to go to Cuba.

The circumstance that since October, 1870, the *Virginus* has touched at foreign ports, without having returned to any port of the United States, cannot, if this is so, exonerate the vessel from her criminality nor the United States from the responsibility which they have incurred by reason of the protection so effectually given by their consuls and vessels of war.

Thanks to this protection, there was formed outside of the material territory of the United States, but within their legal jurisdiction, a kind of base whence the *Virginus* has been able to carry on hostile operations against Spain, and to land expeditions of considerable magnitude in the Island of Cuba.

With respect to all these matters, the undersigned cannot but confidently expect the admission on the part of the Secretary of State that the obligations of one power toward another friendly power, in whose territory there exists an insurrection to which neither party has granted belligerent rights in an international sense, are not less than those of a neutral during a regular state of war between two other countries with which the neutral is on terms of peace and friendship. The duty of efficaciously arresting beginnings, as well as of preventing military expeditions from being conveyed from one country to another, in which, unfortunately, an insurrection exists, is equally obligatory in both cases, and in order to fix the measure of the efficacy referred to, the undersigned is willing, in the case of the *Virginus*, to abide by the proofs furnished and the stand taken at Geneva, in the name of the United

States, whereby was shown the responsibility incurred by Great Britain toward the United States.

Finally, in view of the considerations which have been only generally set forth, the undersigned feels confident that the Government of the United States, acting in obedience to the sentiments of justice and equity which it so ably invoked in its own case, will not hesitate to signify to Spain its willingness to attend to such reclamations as she may have to present for injuries done, with proof that such injuries have been done by the acts of the *Virginus*.

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

JOSÉ POLO DE BERNABÉ.

The Hon. SECRETARY OF STATE
of the United States.

No. 554.

Mr. Fish to Admiral Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, January 9, 1874.

The undersigned, Secretary of State, has the honor to acknowledge the reception of the note of his excellency the envoy extraordinary and minister plenipotentiary of Spain of the 30th ultimo, asking consideration of alleged damages and injuries to Spain caused by the acts of the steamer *Virginus*.

On careful perusal of this note the undersigned perceives that the reclamation presented in behalf of Spain is founded on two distinct grounds: first, the assumption that the *Virginus*, at the time of her departure from New York, sailed with false papers, including registry, crew-list, and manifest; secondly, the assumption that in other respects the expedition was unlawful by reason of the imputed piratical character or purposes of the voyage.

As to the first ground of reclamation, it might be sufficient to say that at the time of the departure of the *Virginus* from New York no objection to the validity of her papers was made from any quarter either to the Government here or to the officers of the customs in New York; nor had anything taken place to awaken suspicion in that respect. All the evidence on that subject referred to by his excellency the envoy of Spain is of recent date, and the facts have come to light only in consequence of the capture of the *Virginus* by the *Tornado*, and of subsequent incidents occurring at Santiago de Cuba.

But if it had been otherwise, the falsification of the papers of the *Virginus* would have been a mere municipal offense on the part of the persons implicated, subject as such to punishment by the local law of the United States, and, whether so punished or not, involving no possible question or matter of controversy with any foreign government. And, therefore, if, as his excellency the Spanish minister insists, the falsification of the register of the *Virginus* were one of the incidents of an intended voyage illegal in other respects, yet this particular fact could not be entitled to any consideration in an international point of view; nor could it constitute reason of complaint on the part of any foreign government.

Finally as relates to this cause of reclamation, if, which cannot be admitted, it were possessed of any force in other relations, still it would be an all-sufficient answer to say that such an act of mere municipal fraud as the falsification of the ship's register, even although a Spanish subject should have been one of the parties to the fraud, cannot involve responsibility on the part of the United States toward Spain as for want of diligence or good faith, seeing that the imputed frauds were not brought to the notice of the United States by Spain, and were otherwise unknown and unsuspected by the Government.

As to the second ground of reclamation, that is, the imputed illegal intentions or objects of the voyage of the *Virginus*, the undersigned does not discover in this any just cause of responsibility of the United States to Spain, whether the question be considered in the light of the municipal law or that of the law of nations.

It is not pretended that the *Virginus* was armed, equipped, or manned for war in any port of the United States; that she bore at the time, or subsequently received, any armament as a ship of war; that her build or equipment had any special military character; or, indeed, that she was intended to, or ever did, in fact, act as a cruiser, piratical or other, against Spain, or the subjects of Spain.

All which is alleged in this respect seems to be that she had on board some inconsiderable invoice of arms or munitions of war, and, it may be, some few persons as passengers, subjects of Spain, and implicated in the existing insurrection of Cuba, but not in sufficient number, as his excellency the minister of Spain admits, to impress upon her the character of a military-transport ship. But the destination of the ship was the neutral port of Curaçoa; the voyage was, on its face, a perfectly lawful one; and the ship seems to have pursued her clearance, and, as it is understood, to have proceeded according to her destination, without touching or attempting to touch on the island of Cuba.

There was no allegation or charge of any improper intent or purpose in the voyage on which she was about to sail, and there was nothing in the build, equipment, cargo, or destination of the vessel to excite suspicion or to authorize proceedings against her at law, or detention by the President. There is no doctrine in the law of nations more universally admitted than that a neutral or friendly government cannot be rendered responsible for shipments of arms, munitions, or material of war made by private individuals at their own risk and peril, and as a private speculation.

If a state of war exists, the parties concerned are unquestionably exposed to the confiscation of their goods as contraband of war, but in that case their act affords no ground of reclamation against their government. Such, as the undersigned undoubtingly assumes, is the received law of nations, not only in the United States, but among all the maritime states of Europe, including Spain herself. It avails nothing to suggest that, as a question of abstract or speculative right, this doctrine of the law of nations involves "inconsequences;" suffice it that such is the doctrine, as universally admitted both in Europe and America.

Hence the undersigned is constrained to deny that there is anything in these particular facts, as represented by the Spanish minister, appertaining to the cargo and voyage of the *Virginus*, to imply responsibility on the part of the United States.

These observations apply with equal or more force to the voyage of the schooner *Billy Butts*, as, indeed, is impliedly conceded by the omission to base any special claim on the voyage of that vessel.

The undersigned is unable to discern any relation between the present question and that of the Trent, it never having been pretended by the United States that the Trent was a case of unlawful equipment in a neutral port, or that her character or her voyage imparted to the United States any cause of reclamation for damages as against Great Britain, and it being admitted by Great Britain that a state of war existed when the act complained of was done.

In conclusion, the undersigned cannot concur with his excellency the envoy from Spain in perceiving any analogy whatever between the case of the *Virginus* and that of the *Alabama*, or other vessels, fitted out in the ports of Great Britain during the late civil war in the United States, and which became the subject of arbitral adjudication at Geneva under the treaty of Washington. If there had been a state of war and the *Virginus* had been armed, equipped, and manned in the port of New York as a regular ship-of-war; if she had then cruised as such on the high seas and had captured and destroyed Spanish merchantmen; then, but not otherwise, Spain might have appealed to the proceedings before the tribunal of arbitration at Geneva as an argument against the United States on the present occasion, exhibiting the question, in behalf of individual Spanish subjects, of redress for injuries suffered by them in consequence of supposed want of due diligence on the part of this Government in not preventing the departure of such ship-of-war from the ports of the United States. But there is no pretension that such is the present case. Spain, in advancing the present reclamation, does not admit that there is a state of war, and does not pretend to represent injuries of subjects of hers, preyed upon by the *Virginus* as a cruiser, but damages and injuries of Spain as a nation or government, by reason of the assumed relation of the acts of the *Virginus* to the existing insurrection in Cuba. And it is that very class of claims which, presented by the United States against Great Britain mainly in the purpose of obtaining a determination of the question, was disposed of by the arbitrators in their unanimous formal declaration that claims of this nature "do not constitute upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations." In appealing to the acts of that tribunal as authority Spain must be considered as accepting such authority, which is conclusive as argument in opposition to the present reclamation on the part of Spain.

With these observations the undersigned has the honor to renew to his excellency the envoy extraordinary and minister plenipotentiary of Spain the assurance of his high consideration.

HAMILTON FISH.

His Excellency Señor DON JOSÉ POLO DE BERNABÉ,
&c., &c., &c.

No. 555.

Admiral Polo de Bernabé to Mr. Fish.

[Translation.]

LEGATION OF SPAIN,
 Washington, February 2, 1874. (Received February 2.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has had the honor to receive the note which the honorable

Secretary of State was pleased to address to him under date the 9th ultimo, in reply to that of this legation of the 30th of December, 1873, relative to the damages and losses occasioned to Spain by the acts of the steamer *Virginus*, with reference to which the undersigned regards it as his duty again to call the attention of the Secretary of State to the text of his communication of the 30th of December, 1873, referred to with a view to observe that the claim which is therein made is based upon the following consideration, namely, that the *Virginus* was fitted out at the port of New York during the year 1870 to form part of a military expedition organized in the United States against the Spanish government and its subjects in the island of Cuba, from which time she was efficaciously protected by the consuls and men-of-war of the United States; thanks to which protection she succeeded in forming for herself outside of the material territory of the United States, but within their legal jurisdiction, a sort of base, whence the *Virginus* was enabled to commit hostilities against Spain and land important expeditions in the island of Cuba. The falsity of the register of the ship's roll, of the list of passengers, of the manifest, and of the clearance, were insisted upon as showing that the expedition was of a military and not of a commercial character; and, therefore, that every reasonable pretext of a legal enterprise vanished in advance, or that the taking on of arms, munitions, and other war-materials, so far as it was done on the account and at the risk of individuals, might be looked at in the same light.

Operations of this sort are scarcely tolerated by international law, and the eminent defender of the interests of the United States at Geneva established in respect to them that, pursuant to modern opinion on similar subjects, acts such as those just set forth are contrary to wise principles of neutrality.

A breach of international law to the injury of Spain and her subjects being thus alleged and proved, the former has a just cause for complaint against and reparation from the United States, unless the latter can exonerate themselves from all responsibility by showing that they were in no way at fault in the matter.

The considerations set forth by the honorable Secretary of State for the exemption of the United States seem to the undersigned to be insufficient, if either the facts or the precepts of law be regarded. The undersigned does not acknowledge that at the time when the *Virginus* started from New York nothing had happened which could give occasion for suspicions in regard to the validity of her papers. Certainly the circumstance that, before the issuing of the register, the omission to give the security usual in such a case for a document which for so many months served as a protection to the *Virginus* against the Spanish cruisers, must have been an occasion for the collector of customs at New York, and all his subordinates whose obligation it was to prevent the departure of vessels which had no regular clearance, to entertain at least suspicions that the voyage on which she was about to proceed was illicit, even if it should be denied, apparently with reason, that any of those functionaries knowingly lent themselves to such an irregular clearance.

Nor can the assertion be allowed to pass that all the testimony relative to the falsity of the documents adverted to is of recent origin and was only brought to light in consequence of the capture of the *Virginus* by the *Tornado*, and of the subsequent incidents at Santiago de Cuba.

More than eight months ago this legation invited the attention of the

Department of State to the deposition of Captain Shepperd, taken at New York, on the 2d of May, 1872, before a judicial agent of this Government. To this deposition the Department of State replied by transmitting a copy of an opinion of Attorney-General Bristow, in which that high functionary stated that he had examined Shepperd's testimony, and had found therein cause to suspect that the register of the steamer was false and in violation of the navigation laws; (that the papers submitted furnish information which may give rise to a suspicion that the registry of the steamer was fraudulent and in violation of the navigation laws.)

Can it, then, be doubted that if the said Attorney-General had taken steps for an examination of the registration document, for which purpose the Department of Justice had greater facilities than this legation, that he would have reached the same conviction as that recently set forth by his present successor?

Besides these circumstances is the one that, many months before the capture by the Tornado took place, an officer of the Spanish navy, who commanded the war-steamer Bazan, then at the port of Colon, (Aspinwall,) animated by sentiments of deference toward a nation with which he knew that his own government had strong relations of friendship, addressed a communication, under date the 27th of July, 1873, to Commander Reed, of the United States war-steamer Kansas, in which he said to him, "I denounce the steamer *Virginus* in the name of the Spanish government as a pirate, and request you that, in consideration of the good relations existing between the two countries, you may arrange for sending that vessel to the United States for trial before the courts of her own country, when Spain will adduce the proof in her possession, with the understanding that if this proof should not be found sufficient for the condemnation of the *Virginus*, as a representative of the Spanish government I assume, on behalf of Spain, the obligation to pay all damages and expenses which may be occasioned by the detention of the vessel."

It may be presumed that this communication was transmitted without delay by Commander Reed to the Secretary of the Navy at Washington; and in view of this, and also of the previous communication of the undersigned on the same subject, it is difficult to comprehend how Spain could have done more, compatibly with her dignity, to incite the United States to expose the piratical character of the vessel referred to, and to set on foot a serious investigation in regard to the beginning and course of her career.

The undersigned duly appreciates the responsibility which, pursuant to municipal law, is incurred by the forging of solemn documents which attest the nationality of a merchant-vessel on the high seas, and secures immunity for the flag which is rightfully displayed. The duties of the profession to which he has devoted himself have heretofore required from him a deliberate study of maritime jurisprudence, and he can do no less than protest against the doctrine that such a forgery in no way involves a possible question upon the subject for controversy with a foreign government, and that it cannot become a subject for consideration in view of international obligations, and does not constitute a subject for complaint on the part of any foreign government.

Spain complains that the United States have not prevented the organization, the departure, and the active prosecution of the different hostile enterprises against Cuba in which the *Virginus* was an agent. The United States answer that they took efficacious measures toward preventing her departure from New York, and to this Spain replies by

pointing to the fraudulent documents issued by the collector of customs at that port, and insists that those show the very reverse of having taken efficacious measures of prevention, and the undersigned is not aware of any principle of international law which should prevent Spain from referring to those spurious documents.

It may also be said that the offense of those in this country who promoted the expedition adverted to was an offense against the United States, inasmuch as their schemes were directed against Spain, and that municipal laws were violated in the act of infringing the precepts of a good international understanding; and that unless this Government can show that it made use of due efficiency for preventing the departure and prosecution of the expedition, this offense becomes one of the United States themselves, whereby, pursuant to international law, it behooves them to make ample reparation to Spain.

How can it be pretended that Spain is incapacitated from proving an act which demonstrates the absence, as has been said, of proper preventive measures?

This is another phase of the question: the Tornado took on the high seas a vessel, on board of which there was a military force for the invasion of the island of Cuba, thereby carrying death and destruction to the loyal subjects of Spain and their property.

The United States interpose and deny the legality of the capture as alleged by the President of the United States in his annual message to Congress, because the captured vessel was duly registered at the port of New York, and formed a part of the mercantile marine of the United States, and, having the certificate of registry in the usual legal form, her capture took place in derogation of the sovereignty of the United States. If, then, the two governments, actuated by desires for peace and friendship, had not succeeded in agreeing upon the bases of the arrangement contained in the protocol of the 29th of November, 1873, is it believed that Spain would not have been able to justify the capture before the great powers of the earth, by showing that long before the capture took place she had called the attention of the Government of the United States to the circumstance that the *Virginus* was not a vessel of those States, and that all the representations in regard to her being true which were made at the time referred to, pursuant to them it had been determined that the cruiser which made the capture should operate?

The undersigned can do no less than maintain that the granting of a false register and a false certificate of register to the *Virginus* show that this Government did not attend with due efficacy to preventing the departure of the expedition, which constituted a hostile act against the sovereignty of a country with which the United States were at peace.

To investigate and determine the measure of the efforts which ought to have been made towards preventing the said piratical expeditions, Spain accepts the criterion followed by the United States at Geneva, where, moved by zeal for their own interest, they declared such a measure of efficacy to comprehend a co-operating zeal, continuous application, "uninterrupted endeavors, the employment of all the faculties adequate for the purpose, and the unwearied and undelayed granting of attention, activity, and assiduity, (enlisted zeal, steady application, constant effort, exertion of all the appropriate faculties, and, without weariness or delay, attention, industry, and assiduity.)"

The second part of the answer of the Secretary of State, so far as it represents the impossibility of finding in the note which the undersigned had the honor to address to him, any just ground on which the respon-

sibility of the United States for the acts of the *Virginus* might be placed, appears to rest upon two different suppositions: first, that the vessel was not, according to its construction and equipment, a military cruiser; and, secondly, that on her first voyage it was not proposed to wage war on the subjects of Spain.

The explicit and uncontroverted testimony of Captain Shepperd and of Varona may not have engaged the attention of the Department of State. It, however, shows, beyond all doubt, both the proposition and the endeavor to attack the commerce of Spain, and from the moment when the *Virginus* did not attempt legally to fly the flag of any country, as in point of fact she did not carry any, such a circumstance constitutes, according to the law of nations, piracy. According to the same law there is no special manner of construction which can or ought to be required for piratical vessels, and on this ground, even if there were no other, the undersigned is confident that the honorable Secretary of State will think proper to reconsider the matter.

In connection with the two preceding suppositions, the Secretary of State alludes to the small quantity of war material and the few soldiers taken by the tug *Virginia Seymour* on board the *Virginus* prior to the departure of this vessel beyond the jurisdiction of the United States, and to the circumstance that many of the said soldiers were subjects of Spain, implicated in the insurrection on foot in the island of Cuba; but it is not on this account said that the expedition was purely of a commercial character, and on that account approved by municipal and international law, or that the United States ought to have allowed it to depart. If it shall be pretended that the first voyage of the *Virginus* was legitimate, in view of the presumed legality of her papers, the obvious answer is, that those papers were *false, counterfeits, and fraudulent*. Several of the crew have deposed that the voyage which it was really proposed that the steamer should make was not correctly stated in the list of the crew lodged at the custom-house at New York. The true destination of the *Virginus* and of the *Billy Butts* was not the neutral port of Curaçoa, if that can be called neutral according to international law, in respect to a civil commotion not recognized beyond the country where it exists.

The character of the cargo of the *Virginus*, specified in her manifest, to wit, one hundred and seventy barrels of bread, of the value of seven hundred and eighty dollars; two cases of saddlery, of the value of four hundred dollars; four cases of clothing, of the value of three hundred and fifty dollars, together with the negative omission of giving security that a legitimate use would be made of her certificate of registry, constitute a sufficient motive for suspicion to justify the collector of customs in detaining her and in setting on foot proceedings looking to her confiscation.

It will not be denied that, at a time a clearance was granted to her, the *Virginus* had committed acts which made her liable to condemnation by the Government of the United States, pursuant to which the collector of customs would have been obliged to detain her, to subject her to trial, and prevent her going to sea and engaging in piratical acts. That this is true is proven by the recent decision of the Government of the United States, and which would have been carried into effect had it not been for the sinking of the *Virginus* before her arrival at New York from Bahia Honda, for solely on account of the irregularity which has been recognized to have existed at the time above mentioned could the vessel have been detained and confiscated. In conformity also to the law of 1792, the collector of customs at New York was, in

the opinion of the undersigned, *guilty of unfaithfulness to his official duty* when he granted a clearance to the *Virginus*.

To this end, and with reference to the requirements of the active and efficient repression of criminal acts, which is the obligation of every country, both in respect to its interest as well as that which it does in respect to the interests of other countries with which it may be in relations of peace and friendship, the government of Spain considers that it has ground for asking reparation from the United States, and this not so much only on account of the first voyage of the *Virginus*, but pursuant, as the undersigned took care to state in his note, on account of all the subsequent acts of the said steamer, in which she received aid and protection from the consular and naval authorities of this country.

With reference to those acts which constitute an infraction of the local laws, and which, from the moment they were directed against Spain, constitute an offense in which the United States were participators unless they can exonerate themselves from such a participation, the undersigned calls the attention of the honorable Secretary of State to the following doctrine laid down by a judge of the Supreme Court of the United States, which, as a material for a text and for greater precision, is copied as follows, in English :

When a person forms the *guilty* intention of carrying on a military expedition or enterprise from the United States against the territory or dominions of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, and shall provide or prepare the means to do so, *his crime is complete*. The expedition or enterprise which the party must contemplate involves a collection or combination of men who are to become members of the expedition. The subscription of money or munitions of war merely does not violate the language of the act of Congress under consideration if no military expedition from the United States be set on foot or contemplated, and for this reason the subscriptions to the cause of Greece, Hungary, or Italy were not the subject of judicial cognizance. But the subscriptions of money, provisions, munitions of war, or the means of transportation, the purchase of bonds issued by a revolutionary government, junta, or military chief, having for their object to afford money, provide men in the United States who shall carry on hostilities against a friendly state or person, is a violation of the act of Congress, and all the persons who participate, in that form, with the contemplated enterprise, are guilty as principals, and are involved in the same penal consequences. The misdoers all accessories share as principals, and the accessory is he who by hire, commerce, counsel, or conspiracy, and he who by showing an express liking, approbation, or assent to an illegal enterprise, does aid and abet a party to commit it. We quote the language of the act of 1818, to exhibit its broad and comprehensive import and the sternness of its rebuke to all the transactions we have alluded to :

“If any person shall, within the territory or jurisdiction of the United States, *begin or set on foot* or provide or prepare the means for any military expedition or enterprise to be carried on thence against the territory or dominions of any state, colony, district, or people with whom the United States are at peace, every person so offending shall be deemed guilty of a high misdemeanor.”

The terms of this act do not require that the expedition or enterprise shall be completed, or that it should even leave the United States. The language is, if any person shall *begin* or “*set on foot*.” It does not require that all its arrangements shall be perfect, and that it shall be in condition to leave the United States. The act stigmatizes as unlawful the preparation or provision of the means to carry on the expedition or enterprise. Thus, whether the execution of the enterprise or the organization of the expedition is “*begun*” or “*set on foot*” by the enlistment of recruits or the collection of arms and other munitions of war or transports, the result is the same. If the object of such preparations is to equip or fit out an expedition from the United States to carry on hostilities against a friendly state, the acts done in furtherance of that object are illegal and subject the offender to prosecution. Nor is it necessary that the expedition should have been exhibited in the United States in martial array or under military organization or discipline. If the members composing the expedition were to have leave as passengers on merchant or passenger vessels, without arms or equipments, to meet upon some coast foreign to the United States, there to be equipped and to be employed against a friendly power, that would fall within the prohibition of the statute. Whether the expedition is an illegal military expedition, does not depend

upon its employment in the United States, but its ultimate destination and object. If its ultimate destination is a foreign state at peace with the United States, and its object hostile to the government or people of that state, or in opposition to their institutions and laws, and the expedition was begun by any arrangements among the men within the United States, or by preparations made there, then the act of Congress has been violated by all who are members of the expedition, and all who in the United States have knowingly and willfully contributed to its preparation.

If the question were decided in the light of this opinion, can it be said that this Government has adopted the means necessary to prevent the opening of subscriptions for the purpose of collecting funds, provisions, munitions of war, means of transport, and the purchase of bonds by the Cuban club of New York, for the purpose of promoting and aiding the insurrectionary war in Cuba?

The Secretary of State concludes his reply to the note of the undersigned by setting forth the reasons why the Department of State finds no analogy between the case of the *Virginus* and that of the *Alabama*, or that of any other of those vessels which were equipped in the ports of Great Britain during the civil war in the United States, and were submitted to the tribunal of arbitration at Geneva, pursuant to the treaty of Washington.

Those reasons are the absence of a state of war between Spain and the insurgents in Cuba. The circumstance that the *Virginus* was not equipped, armed, or manned in the port of New York as a regular vessel of war; that that vessel was not employed to cruise on the high seas, destroying the merchantile marine of Spain; that Spain did not demand damages for injuries inflicted on Spanish subjects as such, but damages resulting to Spain in her character as a nation or government, in consequence of the relations which she alleges to exist between the acts of the *Virginus* and the present insurrection in Cuba; but, notwithstanding this want of analogy which is said to exist between the complaints occasioned by the *Virginus* and those to which the acts of the *Alabama* gave rise, the Secretary of State insists that the formal declaration of the arbitrators at Geneva, relative to what are called "indirect claims," presented by the United States, is a decisive argument against the claims which are now presented on behalf of Spain.

It is enough to say in reply that the undersigned never thought of appealing to the acts of the tribunal of Geneva as an authority, but as a criterion placed there by the United States to express and define the limits to which the fulfillment of the duties of watchfulness and repression should be extended. Nor was it his intention to restrict the complaint which he is charged to present to asking for a compensation for damages and losses of nation from nation; but he proposed to include also the damages inflicted by the acts of the *Virginus* on subjects and property of Spain in the island of Cuba; so that the precedent invoked by the Secretary of State is in every respect inapplicable to the matter under discussion: first, because, according to the admission of the Secretary of State himself, it does not rest on analogous facts; and, second, because the decision of that tribunal has nothing to do with the peculiarities of the present case.

The case would be different if the claims known under the name of "Fenian claims," presented, as the undersigned has understood, by the government of Great Britain, and now existing against this Government, for damages and wrongs inflicted on itself and on its subjects, had been submitted to the tribunal of Geneva, and the arbitrators had decided that that class of claims are not, according to the principles of the law of nations, matters for the concession or appraisement of damages and losses; and, if it had agreed or determined that the United

States had been remiss in the fulfillment of their duty, then, and not otherwise, would the precedent have been applicable to the present occasion. For this reason, and in order to better insure the continuance of the good relations existing between the two governments, the undersigned deems it his duty to submit to the consideration of the honorable Secretary of State some of the most notable of the series of incidents which have given rise to the reclamation that he is intrusted with presenting to the friendly consideration of the Government of the United States.

The insurrectionary uprising which took place at Yara in 1868 did not find extensive sympathies in the island of Cuba, and, although the superior political authority was badly provided as regarded the question of material force for encountering that traitorous manifestation, it was but a little while before its locality was limited to the eastern part of the island, where, as the consul, Mr. Hall, wrote to the Secretary of State, Mr. Seward, on the 18th of November, 1868, "the wild nature of the country, and the complete absence of railroads and even of ordinary roads, militated greatly in favor of the insurgents." A general uprising of the Creole population not having taken place, on the one hand, as had been expected by Aguilera and Cespedes, and the disposition, on the other hand, to temper justice with mercy, induced the captain-general to publish what from its spirit might be regarded as a general amnesty, and by favor of which many Cubans left the island, a large part of them coming to settle in the United States.

It was soon discovered that these disaffected persons, among whom were various owners of valuable estates in the island of Cuba, had returned, in their place of refuge, to their perfidious intrigues against the authority of Spain in Cuba, and that for said purpose they were selling or bargaining to sell their landed estates.

The want of popular support, before alluded to, and other causes, reduced the insurgents in the eastern extremity of the island to the condition of wandering bands, destitute of arms and munitions of war, with no other access to the ports and places where it was possible to communicate with countries beyond the Gulf than those which temporarily and under certain circumstances may be held by parties of bandits or rebels in all countries of the world. With the view of preventing their property and effects in the island of Cuba from being sold, and their proceeds applied in stirring up and sustaining the rebellion, the superior authorities, not without waiting for manifestation of disloyal sentiments and purposes, decreed the revision by the government of such sales and conveyances.

It is certain that, in the civil war of this country, the Federal Government was not slack in its measures of seizure and confiscation when the necessities of the case seemed to require it.

The Spanish government on its part took great care that, in the execution of its decrees, citizens of the United States who were owners of property in Cuba, and innocent of any participation in the acts of the rebels, should not be unduly injured, but it was never easy to harmonize suavity with justice in cases, for example, of eminent banking and commercial houses of New York and other places, who lent their names to a false pretext of being real purchasers by payment of the entire value, when in reality they only held the estates in trust for the purpose of covering and protecting persons who were engaged in violating the laws of Spain.

Isolated cases have doubtless occurred—and where does it not happen in the gloomy periods of internal strife?—of injury to property of for-

eign subjects or citizens; but in all of them, the undersigned does not hesitate to affirm, the Spanish government has sincerely and in good faith endeavored to recompense the damages it has occasioned.

The difficulties which presented themselves in carrying into effect a decree which circumstances rendered indispensable, were increased and aggravated by cases of natives of the country, who suddenly showed themselves provided with documents with which they claimed to prove their quality of citizens of the United States, and the no less surprising rapidity with which some persons, who at the breaking out of the rebellion went away from Cuba, maintained that subsequently to their arrival in the territory of the Union they had acquired citizenship in the country to which they had fled, and in consequence thereof asked indemnity for the property which they had left in the island of Cuba; and claims of this character having become numerous, Spain agreed to the establishment of a mixed commission of arbitration to hear and determine them in conformity to law and justice.

The undersigned does not undertake to deny that at times extreme measures have been employed with respect to the personal liberty and to the property of suspicious individuals at the beginning of the insurrection, and after the generous moderation shown by General Dulce, by order of the government at Madrid, only appeared to serve as stimulus to the insurgents to commit acts of the greatest atrocity against loyal subjects of Spain. The rebels inaugurated their movement by burning and destroying sugar-mills and cities, and hence resulted the necessity of carrying into effect severe and energetic measures of repression—measures which rendered legitimate, so far as they could not be defeated, the interests of self-preservation and defense.

But it cannot be said that such rigorous measures are exclusively those of Spain. The code of instructions for armies in the field, published by the War Department of the United States during the civil war which terminated in 1865, authorized the destruction of every kind of property belonging to the enemy, and the penalty of death on every one who, in a section of territory occupied or subjected by one of the Federal armies, attempted to resist said army or the authorities which it had established. The seizures ordered in Cuba had a precedent, for want of others, in the laws passed by the Congress of the United States, and which imposed on the President the duty of taking possession of the property of the rebels of the South, and of confiscating it. Notwithstanding the great circumspection and caution which may have been observed by the authorities of the United States, the fulfillment of those laws gave rise to onerous and repeated claims for damages and ill-treatment inflicted on foreign subjects, and in consequence thereof a mixed commission has held a number of sessions in Washington to award indemnities for what was done, for damages inflicted on subjects of Great Britain.

That the insurrection at Yara in October, 1868, did not meet with sufficient support from the people of Cuba, and that its leaders comprehended the want of men, pecuniary resources, and munitions of war, is abundantly proved by the circumstance that as soon as they succeeded in establishing communication with the United States they began negotiations for obtaining funds and fitting out military expeditions.

On the 14th of November, 1868, Mr. Seward, at the time Secretary of State, urgently solicited the attention of Attorney-General Evarts to the rumors that were then in circulation respecting an expedition which was being prepared against the island of Cuba, and the marshal of

New York, Mr. Murray, gave information respecting the matter on the 19th of November of the same year, in the following terms, which are transcribed in English :

It is true that a number of well-known filibusters have opened an office at 498 Broome street, in this city, for the ostensible purpose of enlisting men for the invasion of the island of Cuba, but really with a view of making money out of the resident Cubans in this city who sympathize with their cause.

On the 19th day of March, 1869, the predecessor in this legation of the undersigned, Señor Lopez Roberts, informed the Department of State that a steamer called the Salvador was hastily preparing to form part of a military expedition against Cuba; and accordingly said steamer sailed from Key West at the beginning of the month of May following without being obstructed in any manner, carrying on board a hundred and fifty recruits and 2,500 cases of arms, which she landed on the 14th of the same month on a point of the island of Cuba called Nuevas Grandes, according to the testimony of one William C. Pinher or Finher, put in the hands of the Secretary of State on the 18th of December, 1869, among several other documents, on which is founded a request for a recognition of belligerency in favor of the insurrection inaugurated by Cespedes. In the Department of State doubtless exists the antecedents of the Mary Lowell. When that vessel was overtaken and captured through steps taken by the agents of Spain at Ragged Island, her fitters-out had the impudence to pretend that she was bound to Vera Cruz to accomplish an ordinary operation of peaceful commerce, and even claimed damages of Spain for the capture. The testimony, however, existing in the Spanish-American commission at Washington fully proves the falsity of that assertion. The principal furtherers of that expedition were Doctor Basora, Plutereo Gonzales, and Doctor Arango y Mora. The military and naval officers were Captain Bonneau, F. T. Cisneros, and Thomas Jordan. This brig, laden with arms and munitions of war, took out a fraudulent clearance for Vera Cruz from the custom-house at New York in January, 1869, her true destination being Rum Cay, at which point she was to join the steamer Henry Burden, in command of her owner, Campbell, and on board of which were Thomas Jordan and forty or fifty American and Cuban soldiers. From Rum Cay the two vessels mentioned proceeded to Ragged Island, wheret he arms were all to be placed on board the steamer and the entire expedition landed on the coast of Cuba. During their stay at Ragged Island the expeditionists passed the time in military exercises, but at the moment when the voyage was arranged, the vessel which was conveying them, together with her cargo of arms, was captured by a Spanish cruiser. The steamer Henry Burden escaped, and the greater part of the expeditionists succeeded in returning to the United States. This was the first attempt of Thomas Jordan, a person notorious for the numerous offenses which he has committed against the laws of the United States and for being in quality of agent of Aldama, the present chief of the Cuban junta in New York, at which point, according to news received by the undersigned, he continues projecting hostile expeditions against the dominions of Spain.

When it came to be understood in the island of Cuba that there was meditated an invasion of its soil proceeding from and organized in the United States, the superior political government, in manifestation of its firm purpose that the insurrection, held at bay in the interior should not receive aid from abroad, published on the 24th of March, 1869, a decree in which it was said that every vessel captured on the high seas in proximity to the island, and which had on board men, arms, and munitions, or other articles which could in any manner contribute to the

promotion, encouragement, or maintenance of the insurrection, should be held for an enemy and treated as a pirate, in accordance with the ordinances of the tribunals of marine, and that every person captured on board of such a vessel should be put to death by arms.

On the 3d of April, 1869, the Secretary of State of the United States made known to this legation the regret which he experienced at seeing that this decree had disregarded the treaty of 1795, in virtue of which, according to the honorable Mr. Fish, the citizens of the United States and their vessels had the right to carry to the enemies of Spain every kind of goods which were not contraband of war, subject only to the requirements of a legal blockade, and that therefore the United States could not consent that any of its citizens should be punished for merely using this privilege.

Subsequently, on the 7th of July, 1869, the same superior authority, in the exercise of an unquestionable right of sovereignty, closed all the ports and places of the Banda Oriental to commerce of importation and exportation, except a few which were mentioned, in which there were custom-houses; it prohibited the introduction of powder, arms, and warlike stores, whether military or individual, for the service of the insurrection; it decreed the seizure of the vessels and the punishment of the crews that were engaged in conveying said goods, person, or material, and denounced as a pirate every person who should enter the island with armed hand.

Justly uneasy at the success attained by the Cuban insurgents who were refugees in the United States, and at the tone of the note to which reference has just been made, Señor Lopez Roberts, bearing in mind the proclamations which had been issued under similar circumstances by Presidents Taylor in 1849, Fillmore in 1851, Pierce in 1855, and Buchanan in 1859, in which every citizen of the United States was warned and advised against every kind of fellowship with hostile expeditions against the island of Cuba, and was notified that whatever might be the punishment inflicted on them they would not be protected by this Government, intimated to the Secretary of State, in a communication dated the 5th of April, 1869, the propriety of issuing a new proclamation of the same purport.

Unfortunately the intimation of Señor Lopez Roberts was not heeded, since the Secretary of State replied: "At present this Government is not aware of any invasion of the island of Cuba, or of any other possessions of Spain, threatened from the United States, nor is any such believed to be in the course of preparation."

The note of the Secretary of State refusing to accede to the wish of this legation that a presidential proclamation should be issued bore date of the 17th of April, 1869, and twelve days afterward, as appears from the declaration of one Welsh, transmitted to the Department of State on the 1st of June, 1870, that person had engaged to carry from Beaufort, in North Carolina, to the coast of Cuba, in the schooner called Grapeshot, of which he was captain, an expedition in command of one Antonio Jiminez. In consequence thereof Welsh proceeded from Beaufort in the beginning of May, touching on the way, on the 27th of the same month, at Turk's Island, at which point the American consul went on board and participated in manifestations and speeches in favor of the Cuban insurrection; and on the following day, the 28th, the expedition landed at Guantanamo, in the southeastern extremity of the island of Cuba.

The expedition of the Grapeshot is memorable on account of claims which were made against Spain for the shooting of two individuals

called Speakman and Wyeth, captured with arms in hand immediately after the landing. In view of the evidence of the captain of this schooner, there is no doubt that these two individuals, far from being innocent passengers, put ashore in Cuba against their will, as was falsely alleged, sailed from the United States, remained on board of the *Grape-shot*, and finally landed in Cuba with the well-meditated purpose of taking part in acts of death and destruction in which were engaged the wandering bands of *Cespedes*.

In three weeks after the said reply of the Secretary of State, the steamer *Perit*, the property of Messrs. Spofford, Tileston & Co., of New York, and commanded by George G. Hetcher, was falsely cleared at the custom-house of that city, for Kingston, in the island of Jamaica, with a large cargo and three hundred military men, under the orders of the same Thomas Jordan who was one of the officers of the expedition of the *Mary Lowell*. In the packet of instruction given by the owners of the steamer to the captain, dated 4th of May, 1869, it is said, "The vessel under your command will carry a clearance for the port of Kingston, in Jamaica, but before arriving at that place you will stop and will unload at any port designated to you by Francisco J. Cisneros, agent of the shippers, who will be on board, or, in his absence, at whatever place may be indicated by General Thomas Jordan, who will also be on board. Until the unloading has been effected, you will consider yourself under the orders of the above-mentioned individuals. If, on the way to the port which may have been indicated to you for the purpose of unloading, you should be followed by a cruiser or armed vessel, you will await orders from said individuals with respect to avoiding said cruiser or armed vessel, and you will ask them to give you your instructions in writing."

This expedition landed at Bahia de Nipe in nine days after its sailing from New York. The news was published in the newspapers of that city about the time of the departure of the *Perit*, and it never has been denied to the knowledge of the undersigned that some of the agents of Marshal Murray had knowledge of what was being plotted, because, their intervention having been sought in the matter, they lent their assistance in having released a young man whose inexperience had been abused in enlisting him for the expedition.

To this day neither the vessel nor her owners, nor any of the persons who contributed to said formidable enterprise, has been brought to punishment.

As the United States complained that British territory has served the confederates as a maritime base and arsenal from which they were provided with munitions of war, so in like manner could Spain complain that from the month of October, 1868, the territory of the United States has been the only and the prolific purveyor of men and munitions of war for the insurrection of Cuba.

The distinguished jurisconsult who spoke in behalf of the United States at Geneva uttered these words:

All commercial contracts, including the raising of money by loan, the building or fitting of vessels, the sale of arms or munitions or other supplies in aid of insurrection or domestic rebellion in a foreign state, are absolutely condemned as immoral by the laws of England, and are proscribed by the courts of justice.

Soon after the executive power at Washington had refused to issue the proclamation whose opportuneness had been indicated to it, there commenced, as the undersigned proposes to show, active, constant, and systematic exertions on the part of the Cuban junta to supply from the United States the want which the rebels had so keenly experienced, as well of men and cash as of arms and vessels.

The ship-owners did not step forward to freight their vessels for such illicit undertakings, and consequently the junta found themselves obliged, in many cases, to acquire them as property, while a citizen of the United States, bought for this purpose, gave his house as the true owner. The insurance companies refused to issue policies. Funds were obtained by means of subscriptions, and principally by the sale of bonds issued in the name of the so-called republic of Cuba, by its agents in this country; but as said bonds were not payable until the insurrection should succeed in wresting Cuba from the authority of Spain, this condition of eventual and contingent payment made of each purchaser a new participator in the designs of the insurrection. The zeal of the junta of New York and the hopes that they had of escaping punishment caused its members to put aside all reserve, as was remarked by the consul of Spain in the beginning of June, 1869, to Mr. Pierrepont, then district attorney of the United States, and consequently that functionary immediately submitted the facts to a grand jury, who, on the 16th and 23d of that month, laid before the court presentments for violation of the sixth section of the law of April, 1818, against José Morales Lemus, (titled minister of the so-called republic,) José M. Bassora, (secretary of the junta,) Francisco Fesser, Mariano Alvarez, José M. Mora, (implicated in the affair of the *Virginus*,) Ignacio Alfaro, William C. Ryan, (shot recently at Santiago de Cuba,) Doctor J. J. McNulty, Doctor Dubose, (both subsequently found on board of the *Hornet* at Philadelphia,) and various others.

All these individuals were apprehended and called to judgment, and having given security that henceforth they would respect the laws, and would present themselves when asked for, they were set at liberty.

Only the district attorney at New York, or the Attorney-General at Washington, could have compelled the trial and punishment of these malefactors, but up to this day nothing of the kind has been attempted. Ryan escaped by force from the officer who had him in custody, but although he was arrested at a subsequent period, never was he punished for any of his offenses until he was captured on the *Virginus*.

Hardly had the mentioned individuals of the junta been set at liberty under security when they began again their intrigues to send a grand expedition on the steamer *Catharine Whiting*, in which, thanks to the energy displayed by Marshal Barlow, in virtue of orders from Washington, they were completely baffled.

The expeditionists were arrested, but immediately set at liberty without punishment. The vessels were seized previous to proceedings of confiscation, but they were afterward restored to their owners, as happened at a subsequent period with the *Hornet*. In a word, nobody suffered the slightest penalty for this violation of the law.

At the same period of which we have just been treating, that is to say, at the time when the executive power at Washington refused to issue the proclamation solicited by this legation, the Cuban junta of New York concerted measures to put on the ocean a vessel of war completely armed and equipped, under the flag of *Céspedes*.

They were not long in gathering funds, and in the beginning of July, 1869, the steamer *Hornet* was purchased from the United States, as happened with the *Virginus*, and taken to Philadelphia for equipment; and shortly after said steamer was denounced to the authorities by agents of the Spanish government, they having sufficient reasons therefor. On the 1st day of August she was falsely cleared at the custom-house at Philadelphia for the port of Queenstown. In going down the river, having on board McNulty and Dubose, two of the individuals pre-

sented at New York, she was stopped by the custom house officers, but released afterward, notwithstanding that Marshal Barlow had made known to the Attorney-General that, in his judgment, said vessel had an illegal object, as the marshal disclosed in these significant words: "She is bent upon mischief." From Philadelphia the *Hornet* went to Halifax, and thence returned to the jurisdiction of the United States, receiving her arms off the coast of Massachusetts, and her coal and provisions off that of New York, from the same tug which subsequently supplied the *Virginus*, after which she hoisted the insurgent flag of Cuba, and sailed on her piratical errand.

The legation of Spain informed the Department of State, by a note dated September 28, that these things were going on. The marshal in New York had knowledge of them early enough to have prevented their accomplishment, as appears from a communication addressed by that functionary to Attorney-General Hoar, under date of October 1, 1869, had it not happened, as he says, that "*there was nothing to prevent it.*" On Saturday last all the revenue-cutters were withdrawn from under my order, and removed from their stations in the harbor without any information to me of the fact. I only accidentally found it out, and the harbor has since that time been free from cutters and detectives to stop anything."

Being forced by stress of weather, the *Hornet* took refuge at the mouth of Cape Fear River, having on board one hundred and sixty seamen, eight officers, and eight cannons, and when the custom-house officers visited her she was only able to show them a commission issued by the so-called republic of Cuba.

On the 3d of October, 1869, the collector of the port of Wilmington, N. C., asked the Secretary of the Treasury at Washington for instructions, and on the day following the vessel was seized for violation of the third section of the neutrality law. Her officers were arrested and examined before a United States commissioner, and, having been found guilty, were sent for trial to the eastern district of New York. The United States, however, never really instituted legal proceedings against them, and they were finally discharged.

A petition was presented to the court at Wilmington for the surrender of the vessel, as being the property of the republic of Cuba, but this petition was denied by the judge, as coming from a government or body-politic whose existence was not known, and the vessel was consequently condemned and ordered to be sold. The *Hornet* was not sold, but was delivered to a partisan of the Cuban insurrection, in consideration of the payment of \$2,500 to the United States as the costs of the prosecution, (no account was taken of the expense to which Spain had been put,) bail being also furnished in the sum of \$50,000 that she should not again be employed in acts declared illicit by the laws of the United States. The vessel immediately returned to New York, and plans were again set on foot to use her for the same purpose as before.

In vain were the protests of the consul-general of Spain in New York. The correspondence which passed between that functionary and the district attorney, and between this legation and the Department of State, in December, 1870, in relation to this vessel, was published among the documents sent to Congress by the President on the 4th of December, 1871; and at the close of the first volume of "Documents relating to the treaty of Washington," it is admitted by the Department of State that the *Hornet* conveyed another military expedition to Cuba, and that, having been blockaded in the harbor of Port au Prince by a Spanish war-vessel, she succeeded in making her escape through the interposition of

the United States, without any steps having been taken with respect to the vessel or to the aforesaid bail of \$50,000.

The honorable Secretary of State cannot deny that the original fitting out of the Hornet, together with her arming off the coasts of Massachusetts and New York, constituted a *hostile act* against Spain, committed within the jurisdiction of the United States. In view of the facts which have just been stated, it is impossible to argue that a simple commercial operation was had in view with goods contraband of war. The Hornet was an armed cruiser, just as was the Alabama, with this difference, that the former of these vessels was armed and equipped entirely within the jurisdiction of a friendly or neutral country, which was not the case with the latter. In fitting out this vessel, the members of the Cuban junta and their partisans violated the acknowledged rights and duties of asylum, since they made use of the ports of the United States as a basis for their naval operations against Spanish commerce, and, under the protection of their asylum and commercial transactions in contraband goods, they did what in fact constitutes *war* against a friendly country.

The undersigned has dwelt at some length upon these five military expeditions, conveyed by the Salvador, the Grapeshot, the Mary Lowell, the Catharine Whiting, and the Hornet, since they took place at such brief intervals, either before or after the refusal of this Government to issue the proclamation referred to, and of its having thus furnished ground for, and in a great measure rendered necessary, the rigorous decrees promulgated in Cuba in relation to foreign vessels, to the seizure of the property of suspected persons, and to the enforcement of the military penal code against the enemies of Spain captured on the island with arms in their hands. The expeditions already enumerated were speedily followed by others, as the principal of which may be mentioned those of the Lillian, George V. Upton, Florida, Edgar Stewart, E. D. Webster, Anna, Fanny, and Virginius.

The Lillian sailed from Cedar Keys, Fla., October 5, 1869, having Eloy Camacho on board as mate. This was the same person who had charge of the Spanish transport Comanditario when that vessel was surrendered to the insurgents, and the same who subsequently sailed from New York on board of the Virginius. Said vessel carried a large cargo of arms and upward of five hundred recruits, and was under the command of the so-called General Goicouria, the same who was arrested in New York on board of the Catharine Whiting, and subsequently discharged by Commissioner Betts.

The Government of the United States had ample information and notice with regard to this expedition.

The military commander on board of the George V. Upton was one T. J. Cisneros, the same who, in company with Thomas Jordan, took part in the expedition of the Mary Lowell and in that of the Perit. Her captain, Dornin, was second captain on board of the Hornet at the time of the detention of that vessel at Wilmington, and he was set at liberty under the circumstances already referred to. The Upton sailed from Brooklyn, N. Y., May 15, 1870, with one hundred and seventy-eight recruits. Even before reaching Sandy Hook she took a steam-lighter on board, for the purpose of effecting a landing on the coast of Cuba, which was done eight days afterward; and while she was still near New York she received a cargo of arms, in accordance with an arrangement previously made, from the schooner Quickstep. The Upton went from Cuba to Aspinwall, and on the 30th of May, 1870, she took another expedition, which she also landed in Cuba on the 11th

day of June of the same year, returning to New York on the 20th of the same month.

For these acts the Government of the United States inflicted no kind of penalty either upon the vessel, her owners, or the persons who fitted her out.

From an examination of the affidavits sent to the Department of State December 15, 1869, by the Cuban junta of New York, in support of the claim of the insurgents to be recognized as belligerents, it appears that, shortly after the breaking out of the insurrection, one Manuel Quesada had the chief control of everything relating to military affairs, and that he was succeeded in this position by Thomas Jordan, a citizen of the United States, and a certain Agramonte. It further appears, from the affidavit of Adolfo Varoua, that this Quesada was sent to the United States in 1870 by Cespedes in charge of what was called a foreign mission, it being his duty to organize and direct military operations, and it also appears that this same Quesada for a long time had the military command of the *Virginus*.

On the 8th of December, 1873, the aforesaid Quesada published a statement in the *Herald* of that date, the heading of which was as follows: "The representative of the Cuban Republic in foreign countries to His Excellency the President of the United States." In said statement the assertion was made that fourteen steamers, sixteen war-vessels, and forty thousand rifles had been purchased for the benefit of the insurrection. It is unnecessary to say that this enumeration does not include the vessels which were only hired or chartered. The article in question being a curious one in another point of view, inasmuch as it reveals the reasons why a recognition of belligerent rights was so earnestly solicited, an extract from it is given below:

When this population decided to break the ties which bound them to the mother country, propositions were made to inaugurate the movement in April, 1869, at which time it was thought all the arms and necessary supplies could be obtained and properly distributed; but the intention having been discovered by the Spaniards, the outbreak was anticipated by several months, and on the 10th of October of the year previous it took place. The Cubans preferred to go to the field without arms, rather than remain and be executed in cold blood by the Spaniards. *From that moment the only question has been how to obtain arms from abroad.* The Spanish government, being well aware that the oppressed people of the Great Antilles had means enough to arm their forces and to create a navy, confiscated the property of a great part of them. This property amounted to several hundred millions of dollars, as can be proved by the official records in Havana. This measure could not, however, prevent the patriots from buying arms, though it diminished, to an immense extent, the revolutionary resources. By private subscriptions of Cubans only, there have been purchased 14 steamers, 16 sailing-vessels, and 40,000 rifles. Unfortunately, as the requisite funds could not be collected rapidly, it was impossible to apply them on as large a scale as necessary to evade the Spanish blockade, and not to break, in any respect, the neutrality laws of this country. The expeditions, sometimes owing to the scarcity of resources, and at others to the want of experience—natural under the circumstances—have not always arrived at their destinations. It was essential to employ a greater amount of money than could be obtained from private subscriptions. There were three methods of raising such money—sending privateers to sea to prey upon Spanish commerce, exchanging for funds those products remaining within the extent of the insurgent lines, and the negotiation of a foreign loan. To the first was presented the obstacle that the worthy representatives of the Cuban republic at that time did not dare to assume the responsibility, as they were made aware that the American Government would not view favorably the existence of Cuban privateers when it was pressing the Alabama claims. To the second existed the obstacle that Cuban belligerency had not been recognized, and it was impossible to excite the spirit of gain to engage in any enterprises the object of which was to run a blockade. The third had for its obstacle that all the European and some American houses disposed to enter upon its negotiations imposed, as a *sine qua non* condition, the previous recognition of Cuban belligerency by the United States. Consequently, the main object of all our diplomatic efforts has been during a certain time to bring about such recognition.

This statement, and various other well-known circumstances, place beyond all question the fact that the insurrection has received life and material assistance from the United States, which have served as its treasury, its arsenal, and as a base for its naval operations. Had it not been for these illicit aids and hopes it would long since have ceased to exist and to jeopardize the traditional relations of peace and friendship of two powerful nations.

With regard to many of the expeditions which have been conveyed, as already remarked, from the United States to Cuba, either the legation or the consular officers of Spain have given timely and special notice to the Department of State or to the local authorities of this Government, and it must be admitted that in the case of the Catharine Whiting the authorities of New York acted with energy and efficiency. It was unfortunate that the powers conferred by the President upon these authorities on the 13th of July, 1869, were withdrawn from them, as is stated by District Attorney Barlow in his aforesaid communication to Attorney-General Hoar, which bears date of October 1, 1869. But, even if this had not occurred, and if the diplomatic and consular agents of Spain had not given ample notice of what was going on, as was done by Mr. Lopez Roberts in his communication of April 5, 1869, and others of subsequent date, the responsibility of this Government would have been the same. In the argument presented by the United States to the Geneva tribunal, the following is laid down as a principle of international law in relation to vessels which eluded the vigilance of the English authorities :

That they were not complained of or discovered by the minister of the United States does not relieve Great Britain of its duty of due diligence to discover them and to prevent their escape. The duty would have existed if misfortune had deprived the United States of such a representative, or if broken diplomatic relations had removed him from the kingdom.

What a commentary, moreover, upon the failure of the Washington Government to issue a proclamation, are the words which were uttered at Geneva, whereby it was said that England had issued no proclamation, or circular-letters, in order to cause the proper officers to realize "any duty of vigilance to detect, of promptitude to declare, of activity to discourage the illegal outfit or dispatch of vessels in violation of international duty toward the United States!"

It is true that, early in 1870, with a view to facilitating such judicial proceedings as might be commenced, and also in order to afford the utmost dispatch in the courts when it might be necessary, the Secretary of State indicated to the legation of Spain the propriety of informing its consuls that they would be allowed to present directly to the competent authorities of the United States "any *legal* proof that they might have obtained concerning an infraction of the laws." In consequence of this indication, the consular agents of Spain addressed communications relative to the *Hornet* to the said authorities on the 8th of December, 1870, and subsequently to the district attorney, Mr. Bliss. The district attorneys, however, in all cases replied that they had no power to take preventive measures in the absence of such legal proof as would render conviction certain. It is not necessary to say that it is very difficult for the consuls of Spain in this country to procure such proof in this country. It is in the very essence of political sovereignty, that while Spain has the widest latitude of political power within her own territory, she has none in the United States. Any legal action on her part is null and void here, since it lacks the legal authority which alone could render it effective, and because Spain has no control either over

the officers of justice or over the means which are required in order to discover a crime and to furnish legal evidence of its commission. She is not able to compel witnesses to appear and answer questions, and if, from time to time, a witness appears who is ready to tell the truth, Spain has no power to detain him while awaiting the pleasure or the convenience of a district attorney in cases in which it is necessary to bring the matter before the courts. If, then, a witness absents himself, or gives ear to the emissaries of the parties accused, the consuls of Spain find themselves exposed to unjust animadversion, while they cannot defend themselves, with due regard for their own decorum, either in the courts or elsewhere. The difficulties and inconveniences which are experienced by diplomatic and consular agents in discovering and furnishing evidence of crimes against a foreign jurisdiction within such jurisdiction, under established judicial and administrative systems, could not be better set forth than they are in a note addressed to Mr. Seward by Mr. Adams, under date of February 9, 1865, at which time the latter was minister of the United States in England.

The undersigned deems it unnecessary for him to add that it is not his intention to criticise the courts of the United States. In the foregoing remarks he has only desired to allude to the failure on the part of the authorities to take any initiative steps, and, being aware that the courts of justice established for the punishment of crimes against the state only act when a case is brought before them by the state, he complains that the state did not take measures for the prosecution and punishment of the sympathizers with the Cuban insurrection, seeing that, owing to the lack of such measures, certain acts which, in their inception, only constituted misdemeanors of individuals against the state, grew into an offense of the state against Spain, for which the latter is entitled to ask reparation.

After having referred to acts of this nature, and to the circumstances under which they were committed, the undersigned desires to call the attention of the honorable Secretary of State to the true definition of the duties and obligations of the United States, in the light of which these acts should be judged. The undersigned is very far from desiring to diminish or curtail the right of asylum for political offenses. The wisdom of the general principle which denies ex-territorial jurisdiction to criminal laws is acknowledged by all, and the undersigned is not unaware that the treaties concluded for the extradition of fugitives from justice, even on account of grave offenses not of a political character, are comparatively modern. The undersigned is also aware that the United States, like other countries, act under a laudable impulse of humanity in offering a refuge and asylum to those whom revolution, civil war, or political proscription have cast upon their shores. He would certainly not wish to see any impairment of the civil and individual liberty, of the freedom of speech and of the press, or of the security against illegal arrest or prolonged detention of person or property which the institutions of the great republic guarantee to all its inhabitants. These benefits of asylum, however, in favor of political refugees, as they have certain rights and privileges, likewise have corresponding duties and obligations, both as regards those to whom they are granted and the nation which grants them. An asylum signifies security to one fleeing from pursuit, but not a means of molesting his pursuers with impunity, or of converting his place of refuge into an arsenal and fortress from which to attack them. No state should permit a number of political emigrants to abuse the protection of its soil so as to attack with impunity, or in any manner to molest, the government

under whose laws they live, or the one whose jurisdiction they have abandoned. The United States should not, therefore, permit Cubans who have taken refuge on their soil, either on account of political or other offenses, to use their territory to establish and maintain an administrative center, such as the Cuban junta in New York, through whose instrumentality hostile expeditions have been, and still continue to be, sent against the possessions of Spain; and it must be observed that the permission of tolerance granted to the Cuban refugees, in the use which they have made and still make of the territory of the United States, is not only a want of friendship and neutrality, but that it might even be characterized as a really hostile act.

The undersigned will not weary the honorable Secretary of State with numerous quotations or the allegation of numerous antecedents in support of these principles of international law. One or two will suffice. It is an established maxim of British jurisprudence that by the common law of England the law of nations is recognized as forming a part of that jurisprudence, and numerous cases are on record in that country in which the principle has been established that a libelous article, written against a foreign sovereign or government, subjects its author to the penalty provided for libel. In the case of Peltier, a royalist, prosecuted in England for slander of the First Consul during the peace of Amiens, Chief-Justice Ellenborough explained the law to the jury in the following terms, as will be seen by reference to Howell's State Trials, vol. 28, page 230: (236 ?)

I lay it down as law that any publication which tends to degrade, revile, and defame persons in considerable situations of power and dignity in foreign countries may be taken to be and treated as a libel, and particularly when it has a tendency to interrupt the pacific relations between the two countries. If the publication contains a plain and manifest incitement and persuasion, addressed to others, to assassinate and destroy the persons of such magistrates, the tendency of such a publication is to interrupt the harmony subsisting between the two countries, the libel assumes a still more criminal complexion.

The principle above enunciated never went, in England, as the undersigned believes, as regards its application, beyond what is provided for cases of libel; but its general application, as a principle of international law, has been solemnly advocated on other occasions, as is shown by a speech delivered by Lord Lyndhurst in the House of Lords, March 4, 1853, in which he said:

I will first take the case of British subjects. If a number of British subjects were to combine and conspire together to excite revolt among the inhabitants of a friendly state—of a state united in alliance with us—and these persons, in pursuance of that conspiracy, were to issue manifestoes and proclamations for the purpose of carrying that object into effect; above all, if they were to subscribe money for the purpose of purchasing arms to give effect to that intended enterprise, I conceive, and I state with confidence, that such persons would be guilty of a misdemeanor, and liable to suffer punishment by the laws of this country, inasmuch as their conduct would tend to embroil the two countries together, to lead to remonstrances by the one with the other, and ultimately it might lead to war. I think my noble and learned friends who are now assembled here, and who perform so important a part in the deliberations of this house, will not dissent from the opinion I state with respect to British subjects. Now, with respect to foreigners. Foreigners residing in this country, as long as they reside here under the protection of this country, are considered in the light of British subjects or rather subjects of Her Majesty, and are punishable by the criminal law precisely in the same manner, to the same extent, and under the same conditions as natural-born subjects of Her Majesty. In cases of this kind, persons coming here as refugees from a foreign state, in consequence of political acts which they have committed, are bound by every principle of gratitude to conduct themselves with propriety. This circumstance tends greatly to aggravate their offense, and no one can doubt that they are liable to severe punishment. I will put the case in another shape. The offense of endeavoring to excite revolt against a neighboring state is an offense against the law of nations. No writer on the law of nations states otherwise. But the law of nations, according to the decision of our greatest judges, is part of the law of England.

The doctrine of jurisprudence was subsequently confirmed by Lord Brougham, Lord Truro, and Lord Chancellor Cranworth. Phillimore, in his valuable treatise on international law, expresses himself in the same sense, as follows :

International law considers the right of self-preservation as pair and paramount to that of territorial inviolability, and, where they conflict, justifies the maintenance of the former at the expense of the latter right. The case of conflict, indeed, must be indisputable; such a case, however, is quite conceivable. A rebellion or a civil commotion, it may happen, agitates a nation; while the authorities are engaged in repressing it bands of rebels pass the frontier, shelter themselves under the protection of the conterminous state, and from thence, with restored strength and fresh appliances, renew their invasions upon the state from which they have escaped. The invaded state remonstrates. The remonstrance, whether from favor to the rebels or feebleness of the executive, is unheeded, or, at least, the evil complained of remains unredressed. In this state of things, the invaded state is warranted by international law in crossing the frontier and in taking the necessary means for her safety, whether these be the capture or dispersion of the rebels or the destruction of their strongholds, as the exigencies of the case may fairly require. In all cases where the territory of one nation is invaded from the country of another, whether the invading force be composed of the refugees of the country invaded or of subjects of the other country, or both, the government of the invaded country has a right to be satisfied that the country from which the invasion has come has neither by sufferance nor reception openly aided or abetted it.

Lord Palmerston, in a diplomatic note addressed to Lord Ponsonby, under date of October 6, 1849, adheres to the principle that a state ought not to allow emigrants the use of its territory in order to carry on hostilities against the government from whose jurisdiction they have fled. He says :

The Sultan has duties of good neighborhood to fulfill toward Austria, and those duties require that he should not permit his territory to be made use of as a place of shelter, from which communication should be carried on for the purpose of disturbing the tranquillity of any of the states which compose the Austrian Empire. The Sultan is, therefore, bound to prevent these Hungarian refugees from hovering upon the frontier of Hungary or Transylvania, and he ought to require them either to leave the Turkish territory or to take up their residence in some part of the interior of his dominions, where they may have no means of communicating with the discontented in the Austrian states.

In violation of these precepts and examples of the duties owed to each other by countries which are bound by the ties of peace and friendship, when intestine disturbances unfortunately exist in one of them, the Cuban refugees in New York have, during the past four years, more than once succeeded in causing the United States to fail to perform the aforesaid duty. This is principally true in the case of the *Virginus* during the time which elapsed between the month of October, 1870, and that of November, 1873, in which Spain and her subjects on the island of Cuba have suffered serious detriment by reason of the acts of the said vessel. No small number of those engaged in the ill-fated expedition which was frustrated by the *Tornado* were recruited in New York for the purpose of invading the island of Cuba, and sailed for their destination in October last on board of the steamer *Atlas*.

The accompanying statement, made before the consul-general of Spain at New York by a person who took part in the aforesaid expedition, may not be altogether unworthy of credit; and, in addition to what is therein expressed, there is ground for the belief that other evidence might be procured to the effect that upward of forty of the persons who were on board of the *Virginus* were collected in New York, and sailed from that port by the steamer *Atlas*. The names of these persons do not appear in the list of passengers of the aforesaid steamer, but there is no doubt that there were nearly one hundred persons on board of her who had been previously organized and drilled in the port of departure.

The undersigned believes that, before the sailing of the expedition which was conveyed by the steamers Atlas and Virginus, the district attorney "had sufficient reason" to believe that it was on foot, however true it may be that the consul-general of Spain at New York was unable, at that time, to furnish legal proof sufficient to bring to trial the parties implicated, who had been made known to him, as had also their places of meeting.

In the view of these facts and of all the circumstances, which he has frankly and fully stated in the interest of the long-continued friendship and good understanding between Spain and the United States, the undersigned confidently hopes that the Government of the United States will recognize the right of Spain and her subjects to ask reparation for the injury which has been caused in the past by the acts of the Virginus, and security and guarantees for the future that the agents of the Cuban insurrection will not be permitted to use the territory of this nation, as they have done during the last four years, for the organization and fitting out of hostile expeditions against Spain.

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

JOSE POLO DE BERNABÉ.

The Hon. SECRETARY OF STATE
Of the United States.

No. 556.

Mr. Fish to Admiral Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, April 18, 1874.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the reception of the note of 2d of February last, which his excellency Admiral Polo de Bernabé, the envoy extraordinary and minister plenipotentiary of Spain, addressed to him respecting the Virginus, and the assumed relations of the United States toward the insurrection in Cuba.

The pressure of business incident to the session of Congress and a severe indisposition have prevented an earlier reply to that note.

The undersigned has observed with regret in Admiral Polo's note harsh expressions and unwarranted criticisms upon the official conduct of officers of the United States, which he feels confident would not have obtained admission to the paper had they attracted the attention of the accomplished minister of Spain, whose sense of justice would not allow him to give expression to what his sensitiveness and regard for the proprieties of diplomatic correspondence would not permit him calmly to accept.

The undersigned finds in the historical part of Admiral Polo's note many misapprehensions of facts (as the facts are understood by this Government) and many errors of omission which need to be corrected before entering upon the particular argument respecting the Virginus. The undersigned will endeavor to do this as briefly as possible.

The insurrection which broke out at Yara, in the autumn of 1868, has had the unusual good fortune of having the justice of the complaints,

which it alleges in its justification, recognized by those who are engaged in suppressing it. On the 10th of September, 1869, the minister of transmarine affairs at Madrid, in an official paper, said :

A deplorable and pertinacious tradition of despotism, which, if it could ever be justified, is without a shadow of reason at the present time, intrusted the direction and management of our colonial establishment to the agents of the metropolis, destroying, by their dominant and exclusive authority, the vital energies of the country, and the creative and productive activity of free individuals. And although the system may now have improved in some of its details, the domineering action of the authorities being less felt, it still appears full of the original error, which is upheld by the force of tradition, and the necessary influence of interests created under their protection, which, doubtless, are deserving of respect so far as they are reconcilable with the requirements of justice, with the common welfare, and with the principles on which every liberal system should be founded. A change of system, political as well as administrative, is therefore imperatively demanded.

But while admitting the existence of the injuries which had provoked the outbreak at Yara, the government of the revolution of 1868 refused to remedy them until the armed insurrection should be suppressed. "Spain would already have given all constitutional liberties to Cuba," said Mr. Silvela to General Sickles, "if the unfortunate insurrection of Yara and the cry of 'Death to Spain,' uttered by some Cubans, had not alienated the sympathies of the nation, and obliged the government to accept the impolitic contest to which it was provoked. The government considers that it can come to no definite decision in regard to the political situation and future government of the island of Cuba until the insurgents lay down their arms and cease the struggle." This would indicate that it is the resistance to admitted wrongs, and not the wrongfulness of resistance, which Spain is endeavoring to repress.

One of the two great questions at issue between the insurgents and the authorities of Spain was understood to be the future condition of the African race in the island. The insurgents, as early as the 26th of February, 1869, decreed the abolition of slavery "in the name of liberty and the people." This act met with no response from Spain. The eloquent Mr. Castellar, when a member of the Cortes, without the responsibilities of government, said :

I am an advocate of abolition in Cuba, with a due regard to all interests. I am an advocate of colonial reforms, and of every possible liberty to Cuba and Porto Rico.

But when, in the turn of events, he attained to power, he was unable to do anything for Cuba, and retired with slavery untouched, and with reforms still a dream.

It cannot be a matter for wonder that persons in other lands sympathized with the great and liberal statesmen of Spain in their convictions that a large measure of reform was needed in Cuba, and held that one of the greatest of all was the abolition of slavery. And perhaps less surprise will be manifested that such sympathizers in other lands could not comprehend why such distinguished statesmen should insist upon subjugating the Cubans, who had taken up arms to resist oppression, before consenting to relieve them from the wrongs which they were admitted to be enduring.

It must be frankly confessed that there were many persons in the United States who shared the theoretical opinions of the Spanish statesmen, but who could not agree in the diametrically opposite policy which Spain pursued toward Cuba under their directions.

It was natural for the people of the United States to feel an interest in the prosperity of Cuba. This and the reasons for it were well understood at Madrid. Mr. Martos, in the presence of his colleagues, Mr. Becerra and Mr. Rivero, had officially spoken to General Sickles of

"the common interests shared by the United States and Spain in Cuba." He said "that whatever retarded the prosperity of the island was injurious alike to both countries; that the welfare of Cuba was of more commercial importance to the United States than to the mother country."

This wise statesman might have added that the interest of the United States in Cuba was heightened by a desire that the deadly struggle on the island might end in the acquisition of self-government (whether under, or free from, Spanish rule was of course immaterial to an American) and in the abolition of slavery. Such was undoubtedly the fact. The undersigned feels convinced that these views were shared by the mass of the liberal statesmen of Spain, modified, probably, by the patriotic wish that the island should retain its political connection with Spain. But it could not be expected that foreigners would share in the full warmth of this wish of Spanish statesmen. The mass of the people of the United States certainly gave little heed to the matter beyond the natural preference that a disturbing element of European politics should be removed from the American system.

In the rapid progress of events, however, they, in common with the rest of the civilized world, were soon forced to give attention to Cuban affairs. The authorities in that island began to exercise rights of war in time of peace, and to trample out liberties which their superiors at Madrid desired to maintain and extend.

Admiral Polo expresses the opinion that the insurrection "did not find extensive sympathies in the island of Cuba," and that "it was but a little while before its locality was limited to the eastern part of the island.

Such was not the tenor of the information received at this Department.

It is now more than five years since the uprising, and it has been announced, with apparent authority, that Spain has lost upward of eighty thousand men, and has expended upward of one hundred millions of dollars, in efforts to suppress it; yet the insurrection seems to-day as active and as powerful as it has ever been. And the suggestion that its locality was limited to the eastern part of the island leads one to inquire whether Villa Clara and the other of the cinco villas, and the railway between Nuevitas and Puerto Principe, are in that district.

Indeed, until the receipt of Admiral Polo's note, the undersigned had supposed that the extent of the disaffection in Cuba was urged as an extenuating motive for the remarkable series of measures which the undersigned will soon notice.

Soon after the outbreak of the insurrection, this Government, of its own accord, without being thereto moved by the representative of Spain, caused inquiries to be made respecting "rumors of a projected expedition against Cuba" from New York, with a view, should circumstances require it, to the issue of such instructions as might be necessary for "the defeat of the schemes in question." The officer charged with the inquiry answered that he had made a thorough investigation, and added:

It is true that a number of well-known filibusters have opened an office at 498 Broome street, in this city, (New York,) for the ostensible purpose of enlisting men for the invasion of the island of Cuba, but really with a view of making money out of the resident Cubans in this city who sympathize with the cause. *But I am happy to inform you that thus far they have been unsuccessful.*

This fact, which exhibits the anxiety of this Government to perform its international duties, is apparently referred to by Admiral Polo with

a purpose of showing a want of diligence on its part in that respect; since, in quoting the report of the officer, the passage which is *underscored* is omitted.

On the 24th of March, 1869, the captain-general of Cuba issued a decree, which is referred to by Admiral Polo, and from which the following is an extract:

Vessels which may be captured in Spanish waters, or on the high seas near to the island, having on board men, arms, and munitions, or effects that can in any manner contribute, promote, or foment the insurrection in this province, whatsoever their derivation and destination, after examination of their papers and register, shall be *de facto* considered as enemies of the integrity of our territory, and treated as pirates, in accordance with the ordinances of the navy.

All persons captured in such vessels, without regard to their number, will be immediately executed.

A copy of this decree was received at this Department on the 2d of April, 1869, and the undersigned, although but then just entered upon the duties of his office, and greatly pressed with other public matters requiring immediate attention, put everything aside, by direction of the President, and on the next day wrote as follows to the minister of Spain at Washington:

It is to be regretted that so high a functionary as the captain-general of Cuba should, as this paper seems to indicate, have overlooked the obligations of his government pursuant to the law of nations, and especially its promises in the treaty between the United States and Spain of 1795.

Under that law and treaty the United States expect for their citizens and vessels the privilege of carrying to the enemies of Spain, whether those enemies be claimed as Spanish subjects or citizens of other countries, subject only to the requirements of a legal blockade, all merchandise not contraband of war. Articles contraband of war, when destined for the enemies of Spain, are liable to seizure on the high seas, but the right of seizure is limited to such articles only, and no claim for its extension to other merchandise, or to persons not in the civil, military, or naval service of the enemies of Spain, will be acquiesced in by the United States.

This Government certainly cannot assent to the punishment by Spanish authorities of any citizen of the United States for the exercise of a privilege to which he may be entitled under public law and treaties.

It is consequently hoped that his excellency the captain-general of Cuba will either recall the proclamation referred to, or will give such instructions to the proper officers as will prevent its illegal application to citizens of the United States or their property. A contrary course might endanger those friendly and cordial relations between the two governments which it is the hearty desire of the President should be maintained.

The order to indiscriminately slaughter "all persons captured in such vessels, without regard to their number," could not but shock the sensibilities of all humane persons. The undersigned felt, however, unwilling to object to the execution of the order, except when proposed to be enforced against citizens of the United States.

Almost simultaneously with the receipt of this startling news, Mr. Lopez Roberts, on April 5, 1869, made of the undersigned the request referred to by Admiral Polo, that the President should issue a proclamation to restrain military expeditions against Cuba, accompanying the request with allegations "that piratical expeditions are in preparation against the legitimate government of Spain in Cuba," and that "arms and ammunition are sent there in sailing-vessels and steamers."

In regard to the second point thus stated by Admiral Polo's esteemed predecessor, the undersigned was constrained by a due regard to universally recognized principles of international rights and duties to declare, that in the absence of a recognized state of war, it was no offense in the sailing-vessels and steamers of the United States to carry arms and ammunition of war for whomsoever it might concern. The undersigned has uniformly said that no government can by the law of nations

be held responsible for shipments of arms, munitions, or materials of war, made by private individuals at their own risk and peril. If a state of war should exist, if Spain should be entitled to the rights of a belligerent, parties concerned in the shipment of arms and military supplies for her enemy would incur the risk of confiscation by her of their goods; but their act would involve no ground of reclamation against their government in behalf of Spain; and consequently no right to invoke the aid of that government in preventing the perpetration of the act. Such it is believed is the established law of nations, and such the received rule even when the shipment of arms and munitions is made from the territory of the country whose citizens may be the parties engaged in the introduction of these supplies for the use of one of the belligerents.

In regard to the first point thus taken by Mr. Lopez Roberts, the undersigned could not but observe that the allegations respecting alleged piratical expeditions were not only wholly unsupported by proof, but were in themselves extremely improbable.

It is quite competent for a state to apply the term of "piracy" by its municipal acts to any offenses, however trivial, and to affix to them punishments it may deem appropriate. But in thus applying the title of a crime known to international law to offenses created by municipal law, it cannot invoke upon the latter penalties which international law denounces against the crimes which the nations of the world recognize as "piracy."

Within its own territorial jurisdiction the application of terms and of epithets, or even the denunciation of punishments, except so far as they may offend humanity or the civilization of the age, might not be objected to; and the undersigned does not at present feel called upon to deny that the penalties thus denounced may be enforced (without right or question by other powers) upon those who may commit the acts to which these terms are applied, within the territory of the state enacting the municipal law. But it would be inappropriate to apply either such definitions of crime or penalties to matters occurring without its territorial jurisdiction, or in discussions with other powers.

Piracy, as an offense against the unwritten but universally recognized law of nations, has been made the subject of many definitions. The definition by Wheaton, as explained by his commentator Dana, would probably be recognized by the courts of all civilized powers.

Wheaton defines this crime "to be the offense of depredating on the seas without being authorized by any sovereign state, or with commission from different sovereigns at war with each other;" and Dana, in his note upon this definition, says, "to constitute piracy *jure gentium*, it is necessary, first, that the offense be adequate in degree—for instance, robbery, destruction by fire, or other injury to persons or property—must be committed on the high seas and not within the territorial jurisdiction of any nation; and, second, that the offenders, at the time of the commission of the act, should be in fact free from lawful authority, or should have made themselves so by their deed, or, as Sir L. Jenkins says, 'out of the protection of all laws and privileges;' or, in the words of the Duc de Broglie, 'quin'a ni feu ni lieu;' in short, they must be in the predicament of outlaws."

It did not appear to the undersigned from any evidence that was laid before him at that time by Mr. Lopez Roberts, or from any other source, that any parties were undertaking or contemplating military expeditions from the United States against Cuba, or were proposing to make any "piratical expeditions."

The undersigned therefore felt constrained to reply, on the 17th of the same April, in the following language:

After a careful examination of Mr. Roberts's note, the undersigned fails to perceive the necessity, or the propriety at this time, of a proclamation by the President of the United States such as Mr. Roberts desires.

The publication of an instrument of the character asked by Mr. Roberts would be the exercise of a power by the President which is resorted to only on extraordinary occasions, and when peculiar circumstances indicate its necessity. Such a power is not to be invoked lightly, or when the laws are in unquestioned vigor and efficiency, are respected by all persons, and are enforced by the ordinary agencies.

At present this Government is not aware of any invasion of the island of Cuba, or of any other possessions of Spain threatened from the United States, nor is any such believed to be in the course of preparation. Mr. Roberts has, on several occasions, intimated to the undersigned the existence of individual or private attempts in different parts of the country to violate the neutrality laws of the United States. In every such instance, as Mr. Roberts very justly admits in his note, the proper officers of the Government have been called upon immediately to vindicate the supremacy of the law, and no single instance is known or is believed to have arisen in which their interference, thus invoked, has not been efficient to prevent the apprehended violation.

The justice of these views of the undersigned on the 17th of April, 1869, have been amply vindicated by subsequent events.

Instead of resorting to the exceptionable and uncertain measure of a proclamation, this Government availed itself of the agency of special and peremptory instructions to executive officers, and by this means succeeded in preventing the formation of military expeditions in every case referred to by Admiral Polo, except in the case of the Catharine Whiting, and in that case it entirely broke up the proposed expedition by the use of force.

The objectionable decree of the 24th of March was soon followed by a proclamation of Count Valmaseda still more abhorrent to the sense of the civilized world. By this proclamation, made at Bayamo on the 4th of April, 1869, which reached the Department of State on the 9th of May, the following announcement was made to Cubans who believed with Mr. Castelar, General Prim, Mr. Becerra, Mr. Silvela, Mr. Martos, Mr. Rivera, and other Spanish statesmen, that Cuba was suffering under oppression and wrong which ought to be remedied:

1st. Every man, from the age of fifteen years upward, found away from his habitation, (*finca*.) and does not prove a justified motive therefor, will be shot.

2d. Every habitation unoccupied will be burned by the troops.

3d. Every habitation from which does not float a white flag, as a signal that its occupants desire peace, will be reduced to ashes.

Women that are not living at their own homes, or at the house of their relatives, will collect in the town of Jiguani, or Bayamo, where maintenance will be provided. Those who do not present themselves will be conducted forcibly.

The courses of trade and of social intercourse had carried many citizens of the United States into Cuba. When, therefore, this proclamation reached the undersigned, the President thought it right toward Spain that, although scarcely crediting the genuineness of the document, the undersigned should send the following notice to Mr. Lopez Roberts:

In the interest of Christian civilization and common humanity, I hope that this document is a forgery. If it be indeed genuine, the President instructs me, in the most forcible manner, to protest against such a mode of warfare, and to ask you to request the Spanish authorities in Cuba to take such steps that no person having the right to claim the protection of the Government of the United States shall be sacrificed or injured in the conduct of hostilities upon this basis.

Admiral Polo now attempts to defend these orders by saying that—

Such rigorous measures are not confined exclusively to Spain; that the code of instruction for armies in the field published by the War Department of the United States during the civil war which terminated in 1865 authorized the destruction of every

kind of property belonging to the enemy, and the penalty of death on every one who, in a section of territory occupied or subjected by one of the Federal armies, attempted to resist said army or the authorities which it had established.

The United States were in a state of war when the orders referred to were issued. Spain had not been slow in forcing upon them in the very incipency of the rebellion her recognition of a state of war. She does not now recognize that she is herself at war, but appeals, as a precedent for her conduct, to rules prescribed for armies in the field. If she claims the rights, it is but logical that she accept the consequences of a state of war.

The instructions for the government of armies of the United States in the field, referred to by Admiral Polo, were promulgated on the 24th of April, 1863. The undersigned takes the liberty of quoting several passages from them, which sufficiently illustrate the humane and Christian spirit which pervades them—a spirit characterized by Dr. Bluntschli as “en corrélation avec les idées actuelles de l’humanité et la manière de faire la guerre chez les peuples civilisés.”

Martial law is simply military authority exercised in accordance with the laws and usages of war. Military oppression is not martial law; it is the abuse of the power which that law confers. As martial law is executed by military force, it is incumbent upon those who administer it to be strictly guided by the principles of justice, honor, and humanity, virtues adorning a soldier even more than other men, for the very reason that he possesses the power of his arms against the unarmed.

Military necessity admits of all *direct* destruction of life or limb of *armed* enemies, and of other persons whose destruction is incidentally *unavoidable* in the armed contests of the war.

Nevertheless, as civilization has advanced during the last centuries, so has likewise steadily advanced, especially in war on land, the distinction between the private individual belonging to a hostile country and the hostile country itself with its men in arms. The principle has been more and more acknowledged that the unarmed citizen is to be spared in person, property, and honor as much as the exigencies of the war will admit.

The United States acknowledge and protect, in hostile countries occupied by them, religion and morality; strictly private property; the persons of the inhabitants, especially those of women, and the sacredness of domestic relations. Offenses to the contrary shall be rigorously punished.

Modern wars are not internecine wars, in which the killing of the enemy is the object. The destruction of the enemy in modern war, and indeed modern war itself, means to obtain that object of the belligerent which lies beyond the war. Unnecessary and revengeful destruction of life is unlawful.

The undersigned is confident that Admiral Polo will feel a sincere pleasure in thus knowing that his information respecting these instructions has been incorrect. Even had it been correct, the accomplished and generous minister from Spain and the undersigned would alike feel unwilling to contend that two wrongs could make a right.

Even in such case, however, it would be remembered that a worthy precedent might be found in the practice of the United States during a rebellion of the most mighty proportions, pending which not a prisoner was killed in cold blood; not a political crime, however grave, was visited with capital punishment. The soil of the United States remains to this day unstained by the first drop of blood taken from a political offender. Had this example been followed wherever a political insurrection has arisen, many might now be living whose blood cries aloud against the cruelty of some rulers. Christendom generally applauds the example of clemency and of generosity which the United States thus exhibited.

The same spirit of generous regard for life, and forgiveness, marks the policy of the United States in other respects, and makes their penal codes look to the prevention more than to the punishment of crime, and often withholds the enforcement of penalties when the danger against

which they are denounced is supposed to have passed. It is with much regret that it is seen from the correspondence with the representatives of Spain for the past five years, and from the frequent complaints (in the note of Admiral Polo, now acknowledged) of the omission of the United States to enforce penalties and inflict punishment, that Spain does not sympathize with the policy of clemency and forgiveness, and seems to regard punishment as the test of the sincerity with which crime is denounced, and as the sole means of preventing at least political offenses. The examples of the condition of the two countries must be the criterion to determine the comparative merits of the antagonist systems.

Prior to this time, (namely, on the 12th of February, 1869,) a decree with an explanatory statement had been issued by the captain general, taking from the jurisdiction of the ordinary courts a large class of crimes, and forcing American citizens charged with such crimes to be tried before a court-martial, in violation of the provisions of the treaty of 1795. When it is remembered that this decree was issued about the time when it was officially announced to the undersigned that "the rebels have no communication with each other, they occupy no place as a center of operations, nor have they in the whole island a single city, a single town, a single village or hamlet, nor even a point on the coast where they might collect their forces, and date their orders and proclamations," Admiral Polo will comprehend the magnitude of this assault upon the rights secured to citizens of the United States by the treaty of 1795.

The English translation of the text of this decree is as follows :

In use of the extraordinary faculties with which the provisional government of the nation has invested me, I decree the following :

ARTICLE 1. Crimes of *infidencia* shall be tried by ordinary court-martial.

ART. 2. Prosecutions already commenced shall follow the legal process prescribed by the laws for the tribunals of justice.

ART. 3. All aggressions, by act or by word, against any of the delegates of the government, shall be considered as a crime against the authority, and will subject its author to trial by court-martial.

DOMINGO DULCE.

HAVANA, February 12, 1869.

SUPERIOR POLITICAL GOVERNMENT OF THE EVER-FAITHFUL ISLAND OF CUBA—OFFICE OF THE SECRETARY.

For the better understanding of the decree published yesterday, (the 12th of February,) it is made known that under the word *infidencia*, which is made use of in article 1, are understood the following crimes: treason, or *lesa nacion*, rebellion, insurrection, conspiracy, sedition, harboring of rebels and criminals, intelligence with the enemy, meetings of journeymen or laborers and leagues; expressions, cries, or voices subversive or seditious; propagation of alarming news; manifestations, allegations, and all that, with a political end, tends to disturb public tranquillity and order, or that in any mode attacks the national integrity,

It is also made known that robbery in uninhabited districts, whatever may be the number of the robbers, and in populated districts, if the number of the robbers be more than three, shall be tried by court-martial, as also the bearers of prohibited arms. And by order of his excellency the superior political governor, the same is published in the Gazette, for the general knowledge.

On the 15th of April, 1869, the same policy which had prompted the authorities in Cuba to deprive citizens of the United States of personal rights guaranteed to them by treaty, led to a decree of embargoes of property, which, so far as it applied to the properties of citizens of the United States, was also in direct violation of the rights secured by the treaty of 1795. The publication of this decree was followed by the publication of another decree, (made on the 1st day of April,) interfering with the free alienation of property on the island. And two days later

another decree was published, creating an administrative council to take charge of the embargoed estates. Under the operation of these several decrees a vast amount of the property of citizens of the United States is understood to have (illegally, and in violation of law and right) come into the possession of subjects of Spain, without having yet been accounted for or refunded.

When these decrees came to the knowledge of the undersigned, he addressed the following communication to the predecessor of Admiral Polo, under date of April 30, 1869:

I am instructed by the President to inform you that this department has received from the United States consulate in Cuba a decree dated the first day of April current, and promulgated by the captain-general of the island on the 15th of this month, which virtually forbids the alienation of property in the island, except with the revision and assent of certain officials named in the decree, and which declares null and void all sales made without such revision and assent.

In view of the intimate commercial relations between Cuba and the United States, and of the great amount of American property constantly invested there in commercial ventures, as well as in a more permanent form, the President views with regret such sweeping interference with the rights of individuals to alienate or dispose of their property, and he hopes that steps may be speedily taken to modify this decree so that it shall not be applicable to the property of citizens of the United States, and thus prevent disputes and complaints that cannot fail to arise if its execution is attempted as to such property.

It is with regret that the undersigned finds himself unable to accept the declaration in Admiral Polo's note made in connection with the seizure of private estates, and the transfers of private property, that it was not without waiting for manifestations of disloyal sentiments and purposes that the decrees were made respecting the sales and embargoes. The undersigned is of opinion that a recurrence to the correspondence which he has had the honor to conduct with the Spanish legation in this capital, and through the legation of this government at Madrid, will recall many instances of interference with the private rights and property of citizens of the United States, who have had no connection with the insurrectionary movements in Cuba, and many where Spain has practically admitted the precipitancy of her officers in their haste to lay hands on private property, and has in many instances promised, and in a very few instances has granted, the restoration of property thus unlawfully seized. And in this connection the undersigned must be permitted to express the regret with which he observes the introduction into a diplomatic note of the cases of "eminent banking and commercial houses of New York and other places," which, by agreement between the two governments, have been referred for adjudication to an international commission, and the prejudgment and denunciation of these eminent houses as having "lent their names to a false pretext."

On the 7th of July, 1869, the captain-general of Cuba decreed:

ARTICLE 1. There shall continue closed to import and export trade, as well for vessels in foreign commerce as also those in the coasting trade, all the ports situated from Cayo Bahia de Cadiz to Punta Mayo, on the north, and from Punta Mayo to Cienfuegos, on the south, with the exception of those of Sagua la Grande, Caibarien, Nuevitas, Gibara, Baracoa, Guantnamo, Santiago de Cuba, Manzanillo, Santa Cruz, Zaza, Casilda, or Trinidad, and Cienfuegos, in which there are established custom-houses or collection-offices.

Those who attempt to enter the closed ports or to hold communication with the coast shall be pursued, and, on being apprehended, prosecuted as infractors of the laws.

ART. 2. In accordance with the same, there shall also be prosecuted vessels carrying powder, arms, or military supplies.

ART. 3. The transportation of individuals for the services of the insurrection is much more grave than that of contraband, and will be considered as an act decidedly hostile, being proceeded against in such case as an enemy, the vessel and its crew.

ART. 4. If the individuals to which the preceding article refers come armed, they

will afford proof in fact of their intentions, and will be tried as pirates the same as the crew of the vessel.

ART. 5. There shall also be held to be pirates, in conformity with law, vessels which may be seized bearing a flag not recognized, whether the same be armed or not as vessels of war.

ART. 6. On the high seas contiguous to those of this island the cruisers shall confine themselves to exercise over such vessels as may be denounced, or those that by their proceedings excite suspicion, the rights stipulated in the treaties signed by Spain with the United States in 1795, with Great Britain in 1835, and with other nations subsequently, and if in the exercise of these rights vessels should be found recognized as enemies of the integrity of the territory, they shall be brought into port for the corresponding legal investigation and trial.

This extraordinary decree caused a profound sensation in the United States, and the undersigned, as soon as it was received, addressed a note of inquiry to the predecessor of Admiral Polo, dated July 16, 1869, the material parts of which he takes the liberty of transcribing, as Admiral Polo seems to be under a misapprehension respecting it:

The decree of the captain-general, De Rodas, assumes powers and rights over the trade and commerce of other peoples inconsistent with a state of peace, and which the United States can be expected to allow their vessels to be subject to only when Spain avows herself to be in a state of war, or shall be manifestly exercising the rights conceded only to belligerents in the time of war.

The first article of the decree proposes to close certain ports, embracing a large extent of the island of Cuba, against the peaceful commerce of foreign countries. Without contesting the right of a government in time of peace to exclude from its ports the trade and commerce of a friendly people, the undersigned assumes that the exercise of this power is to be understood purely as a municipal act, to be executed and enforced wholly within the recognized exclusive jurisdiction of Spain, and only as to ports which are in the possession of the Spanish authorities. In case the success of the insurrectionary party should put any of the ports, declared to be closed, in their possession, the United States, as a maritime nation, will regard an effective blockade to be necessary to the exclusion of their commerce.

The second article of the decree is vague in the absence of the limits within which it proposes to prohibit the carrying of powder, arms, or military supplies.

The transportation on the high seas, in time of peace, of articles commonly known as contraband of war, is a legitimate traffic and commerce which cannot be interfered with or denounced unless by a power at war with a third party in the admitted exercise of the recognized rights of a belligerent. The freedom of the ocean can nowhere and under no circumstances be yielded by the United States. The high seas contiguous to those of the island of Cuba are a direct pathway of a large part of the purely domestic trade of the United States. Their vessels trading between their ports in the Gulf of Mexico and those of the Atlantic coast pass necessarily through these waters. The greater part of the trade between the ports of the United States on the eastern side of the continent and those on the Pacific slope, of necessity pass in sight of the island of Cuba. The United States cannot, then, be indifferent or silent under a decree which, by the vagueness of its terms, may be construed to allow their vessels on the high seas, whatever may be their cargo, to be embarrassed or interfered with. If Spain be at war with Cuba, the United States will submit to those rights which public law concedes to belligerents. But while Spain disclaims a state of belligerency, or until the United States may find it necessary to recognize her as a belligerent, the Government of the United States cannot fail to look with solicitude upon a decree which, if enforced against any vessel of the United States on the high seas, cannot but be regarded as a violation of their rights that may lead to serious complications.

The sixth article of the decree refers to certain rights claimed to be stipulated by the treaty entered into between Spain and the United States in 1795.

The undersigned desires to call the attention of Mr. Roberts and of the government of Spain to the fact that the treaty of 1795 confers upon neither of the contracting parties any rights on the high seas over the vessels of the other in time of peace.

The articles of the treaty of 1795 from I to XI, inclusive, define and regulate the reciprocal relations and obligations of the parties without reference to either party being engaged in war. The portion of the treaty from the XIIth article to the XVIIIth contemplates exclusively their relations as neutrals, the duties and powers of each toward the other when one or the other may be engaged in war with a third party. The eighteenth section recognizes and regulates the right of visit or of approaching in time of war, for the inspection of the passport and the identification of the nationality of a vessel of commerce by the vessels of war, or by any privateer of the nation which shall be at war. It confers no right; it limits and prescribes the manner of exercising a belligerent right when such may exist. The clear object and intent of this

provision of the treaty is the avoidance of discussion and annoyance, and the prevention of abuse or indiscretion in the exercise of a belligerent right. Its location in the treaty, the recognition of the right of a privateer (who has no existence except in war) as having the same power and right in the particular referred to with a national vessel of war, and the whole scope and aim of the XVIIIth article of the treaty, established beyond possibility of question that it refers only to the rights which one of the parties may have by reason of being in a state of war.

The treaty authorizes nothing but the inspection of the passport of the vessel of trade met with, while the sixth article of the decree of General de Rodas contemplates a search as to the character of the vessel beyond the limitation fixed by the treaty.

If Spain be engaged in the war it is essential to the rights as well as to the definition of the duties of the people of the United States that they be publicly and authoritatively advised thereof and admonished as to their obligations and liabilities in their new relation with a friendly power. And such admonition admits of no avoidable delay in view of the vast commerce that will thus be subjected to restriction, limitation, and possible detention.

The undersigned, therefore, respectfully desires to be informed by Mr. Roberts, at the earliest practicable moment, whether, in the issuance of this decree, it is to be understood by the United States that Spain recognizes that she is in a state of war and claims the rights of a belligerent.

The undersigned has the honor further to say to Mr. Roberts that the Government of the United States cannot fail to regard the continuance of the decree referred to, or any exercise on the high seas near the island of Cuba, by any vessel of war or privateer of Spain, of the right to visit or board any vessel of the United States, under color of the provisions of the treaty of 1795, as involving the logical conclusion of a recognition by Spain of a state of war with Cuba.

Before concluding, the undersigned begs to call Mr. Roberts's attention to the very grave complication which might ensue from any interference with a vessel of the United States engaged in a lawful voyage, passing near the island of Cuba. The United States maintain the right of their flag to cover and protect their ships on the high seas.

In conclusion, the undersigned expresses the hope that Mr. Roberts will speedily be at liberty to announce the formal abrogation of a decree which causes so much serious apprehension to the Government of the United States, and against which this Government feels bound most earnestly to remonstrate.

In deference, as it was understood, to these views expressed by the undersigned on behalf of this Government, the decree of the captain-general was modified as follows on the 18th of July, 1869 :

In view of the determinations adopted by the Government of the United States of America, as reported by his excellency the minister of Spain in Washington, under date of the 15th instant, and which were published in the Official Gazette of the following day, and in order at the same time to relieve legitimate commerce from all unnecessary interference, in use of the faculties which are conferred upon me by the supreme government of the nation, I have determined to modify my decree of the 7th instant, leaving the same reduced to the first five and essential articles.

In consequence of these severe measures against the persons and properties of Cubans who shared the opinions of the liberal statesmen of Spain respecting the injuries which had been inflicted upon their native country, many fled from the island to the United States. And the undersigned cannot disguise from himself that these Spanish subjects, driven from their native country, have attempted to abuse the hospitality of the United States—that they have tried to make use of their safety here in order to regain what they had lost in Cuba, and that they have been restrained only by the perpetual vigilance and zeal of the officers of the United States. Alas! if the ears of the ministers of A madeo and of the republic could have been opened to the complaints of their Cuban friends, what crinations might have been spared us!

Admiral Polo, in his review of the vessels which, he says, have taken or attempted to take men and arms from the United States to Cuba, speaks particularly of the Mary Lowell, the Salvador, the Grapeshot, the Catherine Whiting, the Hornet, the Lillian, the Upton, and the Virginus. He also makes reference to the Florida, the Edgar Stuart, the Anna, the Fanny, and the Webster.

The imperfect and in many respects erroneous manner in which Admiral Polo has referred to the vessels which he has named, and his entire neglect to notice the many proofs of the constant vigilance and of the anxious desire of the United States to perform all their international duties to Spain, make it necessary for the undersigned to give a brief review of what was actually done by the United States in respect of these matters.

It may give precision to the review to first define succinctly what the United States understand to have been their duties toward Spain, as a neighbor and as a friend.

The repeated references by Admiral Polo to the doctrines laid down in the course of the discussion at Geneva induce the undersigned to say at the outset, not only that the particular references and citations are from the argument of counsel, which in forensic discussions among all nations is permitted to take a wider latitude of expression than is usual in official or judicial statements, which are supposed to express settled convictions, but also that these discussions at Geneva were predicated upon the admission of a recognized state of war; and that if Spain is prepared to concede that there is a state of war in Cuba, with belligerent rights in each party to the conflict, and shall accede to the three rules set forth in the treaty of Washington, then the United States may be prepared to concede to Spain what they claimed of Great Britain at Geneva, viz, that their duties as a neutral toward Spain as a belligerent will not thereafter be fully performed by simply acting upon information which may be furnished by Spanish agents, without themselves originating any action; that, in the language of their own counter-case at Geneva, "they would not thereby be relieved from the duty of an independent, diligent, and vigilant watchfulness in order to prevent evil-disposed persons from violating their neutrality."

But the undersigned is also constrained to insist that the idea of neutrality in international discussions is inseparable from the idea of a belligerency to which the neutral is not a party; and to repeat that he is unable to comprehend how propositions for the regulation of the conduct of a neutral in a state of war can be pertinently applied to the conduct of one sovereign state toward another friendly sovereign state in time of peace. Thus, when Peru, between whom and Spain a state of war existed, requested the United States to detain a large number of vessels of war, which certain contractors were constructing within the territories of the United States for Spain, it became the duty of the United States to detain the vessels; but, when the assent to their release was given by Peru, it was not regarded by Spain or by the United States as any violation of international duty to permit the vessels to be constructed and delivered and dispatched, notwithstanding the existence of an armed insurrection against Spain in Cuba. Nor can it be claimed that the United States have been guilty of any neglect or want of duty in allowing Spain, on more than one occasion, to make use of their public dock-yards for the reparation of vessels of war.

So far as relates to the past, Spain has never been willing to concede that a state of war exists in Cuba. The rights and duties of the United States toward Spain, therefore, from the commencement of the insurrection, are to be measured by the rights and duties of one nation toward another, in case an insurrection exists which does not rise to the dignity of recognized war.

What one power in such case may not knowingly permit to be done toward another power, without violating its international duties, is de-

fin'd with sufficient accuracy in the statute of 1818, known as the neutrality law of the United States.

It may not consent to the enlistment within its territorial jurisdiction of naval and military forces intended for the service of the insurrection.

It may not knowingly permit the fitting out and arming or the increasing or augmenting the force of any ship or vessel within its territorial jurisdiction, with intent that such ship or vessel shall be employed in the service of the insurrection.

It may not knowingly permit the setting on foot of military expeditions or enterprises to be carried on from its territory against the power with which the insurrection is contending.

The learned and accomplished minister of Spain, toward the close of his able discussion of this subject, cites the authority of Lord Palmerston to establish that a sovereign power "should not permit its territory to be made use of as a place of shelter, from which communication should be carried on for the purpose of disturbing the tranquillity of the neighboring states."

These duties of good neighborhood were recognized by this Government more than a quarter of a century before Lord Palmerston made the speech referred to by Admiral Polo; and the neutrality law of 1818 was then enacted for the purpose of defining the acts of disturbance which should be prevented, and of providing a punishment for such persons as might be found to be guilty of them.

But a friendly government violates no duty of good neighborhood in allowing the free sale of arms and munitions of war to all persons, to insurgents as well as to the regularly-constituted authorities; and such arms and munitions, by whichever party purchased, may be carried in its vessels on the high seas, without liability to question by any other party. In like manner its vessels may freely carry unarmed passengers, even though known to be insurgents, without thereby rendering the government which permits it liable to a charge of violating its international duties. But if such passengers, on the contrary, should be armed and proceed to the scene of the insurrection as an organized body, which might be capable of levying war, they constitute a hostile expedition which may not be knowingly permitted, without a violation of international obligation.

During the late Franco-German war, each party was free to purchase arms and munitions of war in this country, and did so; and Frenchmen whose hearts were with their struggling countrymen at home, or Germans who wished to join the invading armies of Germany, were free to leave the shores of the United States for that purpose, so long as they left as private citizens, unarmed, and without engagement made in this country to enter the service of a belligerent. They did thus leave, in vessels of several different nationalities. Neither this Government nor any other neutral government which may have allowed its merchant-marine to transport the arms and munitions of war or the passengers to Europe, was guilty of a violation of its duties as a neutral.

Even recognized war, therefore, cannot oblige neutral nations to contract the right of their citizens to engage in such commerce, which is lawful in time of peace, or to abridge the liberties of persons enjoying the protection of their flag, to such a point as to render illegal either of these proceedings; although in time of actual war the transportation on the high seas of articles known as contraband of war is to be made subject to the right of capture. But in time of peace no vessel of war has the

right to capture, or even to interfere with, molest, or detain upon the high seas a regularly documented vessel of another power.

This doctrine is not new in the intercourse of nations.

On the 10th day of April, 1858, Mr. Cass, then Secretary of State of the United States, wrote to Lord Napier, the envoy of Great Britain :

Undoubtedly a right vested in the armed cruisers of one state to stop and examine the merchant-vessels of another might be so exercised as to contribute toward the suppression of crimes upon the ocean. But this power of armed intervention might also be exerted at the expense of the maritime rights of the world. Such an exercise of force, so liable to be abused, will never meet the concurrence of the United States, whose history abounds with admonitions, warning them against its injuries and dangers. They have no disposition to surrender the police of the ocean to any other power, and they will never falter in their determination to enforce their own laws in their own vessels, and by their own power, and to oppose the pretensions of every other nation to board them by force in times of peace. * * * To permit a foreign officer to board the vessel of another power, to assume command in her, to call for and examine her papers, to pass judgment upon her character, to decide the broad inquiry whether she is navigated according to law, and to send her in at pleasure for trial, cannot be submitted to by any independent nation without injury and dishonor. The United States deny the right of the cruisers of any other power whatever, for any purpose whatever, to enter their vessels by force in time of peace. No such right is recognized by the law of nations. As Lord Stowell truly said, "I can find no authority that gives the right of interruption to the navigation of states upon the high seas, except that which the right of war gives to belligerents against neutrals. No nation can exercise a right of visitation and search upon the common and unappropriated parts of the ocean, except upon the belligerent claim."

On the 8th of June, 1858, Mr. Dallas, the minister of the United States in London, had an interview with Lord Malmesbury, at the foreign office, on the subject of the detention and visitation of documented vessels of the United States by British cruisers on the high seas. Lord Malmesbury furnished Mr. Dallas with a written minute of the conversation which then took place :

Her Majesty's government are not prepared to justify or excuse such acts on the part of their officers as have been complained of by the United States Government, if they are truly reported. Her Majesty's government recognize the principles of international law, as laid down by General Cass in his note of the 10th of April, and that nothing of the treaty of 1842 supersedes that law. Her Majesty's government, however, think it most indispensable in the interest of civilization and the police of the seas that there should be a power of verifying the nationality of a vessel suspected, on good grounds, of carrying false colors. Her Majesty's government would wish to learn from the United States Government their views in detail on this point, in the hope that some mutual arrangement, by way of proceedings, to be executed by our respective officers, may be found effective without being offensive. The French have lately proposed and laid down this one, viz : that a boat may be sent alongside of a suspected ship, and may ask for papers, but not, unless invited, board the vessel. Such is our arrangement with France. Lord Malmesbury has given Mr. Dallas a copy of our instructions to our officers. Pending our negotiation on the above point, orders will be given to discontinue search of United States vessels.

On the 16th of the same June, the Senate of the United States unanimously adopted a resolution—

That American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong, and, therefore, any visitation, molestation, or detention of such vessel, by force, or by the exhibition of force, on the part of a foreign power, is in derogation of the sovereignty of the United States.

It is also understood that the enlightened government of Spain has, in the recent case of the *Deerhound*, recognized the justice and force of the principle thus established in practice by France, Great Britain, and the United States.

That vessel was dispatched from Plymouth, (England,) with a cargo of arms, ammunition, and military clothing, destined for the Carlist insurgents in the north of Spain. She was captured by a Spanish

cruiser on the high seas off the coast of Spain and taken into port. Lord Granville demanded her release, saying—

Her Majesty's government cannot acquiesce in the competency of the Spanish government to refer to a prize-court the case of the *Deerhound*; neither can Her Majesty's government admit that legal jurisdiction can be assumed by the Spanish government over a British ship which, in time of peace, has been seized upon the high seas by a public ship of Spain.

The government of Spain surrendered the *Deerhound*, and Mr. Carvajal informed the representative of Great Britain—

That if her release was agreed upon, it was only because of her having been captured in neutral waters.

The learned minister of Spain seeks to maintain, by a citation from an eminent English publicist, that this right of transportation may be subordinated by the necessities of self-preservation in the government which is contending with an insurrection. It is not necessary for the undersigned to assent to or to deny the justice of this proposition in the extreme case and with the great limitations stated by Sir R. Phillimore. But the acute intelligence of Admiral Polo cannot fail to perceive that the supposed act of self-preservation is none the less an act of war because alleged to be done in self-defense; and the undersigned cannot permit himself to assume that Spain maintains that such an invasion of the territory of another power as Phillimore refers to would confer upon the courts or military authorities of the invading nation the right to try and condemn, for alleged crimes, persons who might be captured on neutral soil. In the case of the *Virginus*, had Spain, after her capture by the *Tornado*, restored her and her passengers and crew to the United States, to be dealt with according to their laws, the appropriateness of the citation from the British publicist would appear to be more manifest.

Admiral Polo also cites an extract from a speech by Lord Lyndhurst, in the House of Lords, in March, 1853, in which the learned jurist endeavored to convince that distinguished body that, by the laws of England—

If a number of British subjects were to combine and to conspire together to excite revolt among the inhabitants of a friendly state, and those persons, in pursuance of that conspiracy, were to issue manifestoes and proclamations for the purpose of carrying that object into effect; above all, if they were to subscribe money for the purpose of purchasing arms to give effect to that intended enterprise, such persons would be guilty of a misdemeanor, and liable to suffer punishment, and that foreigners residing in England are punishable by the common law, precisely in the same manner, and to the same extent, and under the same conditions as natural-born subjects.

In view of events which have taken place since that speech was delivered, the undersigned might, were it necessary, feel disposed to doubt whether Lord Lyndhurst correctly interpreted English law, as understood by its administrators. But it is needless to dwell upon that consideration, because, as the undersigned has already pointed out, the United States have not left the character of that class of acts to be determined by unwritten common law, but have provided by statute which of them, if committed, should be regarded as criminal, and punished accordingly.

In the same connection Admiral Polo refers to a decision of a British court respecting the law of libel. It is not understood what precise bearing upon the present discussion this reference is intended to have. If it be intended to suggest the propriety or the expediency of limiting the freedom of public discussion in the United States upon the Cuban insurrection, the reply must be courteous but peremptory and distinct that the suggestion cannot be entertained. This Government tolerates the greatest freedom and latitude of discussion of public subjects.

It even permits, without objection, a journal in New York, which is currently reported to receive pecuniary support from official Spanish sources, to indulge in language vulgarly abusive and libelous toward the President of the United States and the undersigned, and calculated to excite disrespect toward the Government, and to destroy confidence in the institutions of the country.

The amiable and just minister of Spain will not ask a government which permits such freedom in a foreigner to restrain its own citizens within narrower limits. And it will probably occur to him that a comparison of the tone, temper, and modes of expression of the journals of this country (where no censorship prevails) toward Spain, with those of the journals of Madrid and of Havana (where it is understood that the government assumes the responsibility of controlling what shall appear) toward the United States, will show that the American press is quite as temperate, wise, moderate, and just as is the Spanish.

The undersigned will now proceed to show that the United States have faithfully performed all their international duties toward Spain during the existing insurrection.

The earliest case to which Admiral Polo invites attention is that of the *Mary Lowell*. It is not alleged, as it certainly could not be correctly said, that this Government had any knowledge or information of the sailing of this vessel, so that it is unnecessary for the undersigned in this connection to consider whether the voyage upon which she was engaged was or was not one which should have been prevented by this Government. And further, the *Mary Lowell* never reached Cuba except as a vessel captured by a Spanish man-of-war, and did no injury to Spain. The undersigned would be at a loss to understand why reference is made to her, were it not that Admiral Polo makes reference to the fact that a claim against Spain growing out of an illegal seizure of this vessel is now pending before a judicial tribunal in Washington, and attempts to prejudice the case. The United States having agreed to submit that question to arbitration, the undersigned declines to enter upon a diplomatic discussion of it.

The case of the *Salvador* comes next in point of time.

On the 19th of March, 1869, the esteemed predecessor of Admiral Polo handed to the Secretary of State an unsigned and undated memorandum, in the following terms :

From official information deserving entire credence, it is known that at the port of Jacksonville or Fernandina, on the coast of Florida, a steamer is being fitted out by the name of *Salvador*, (or perhaps some other name,) for the purpose of committing depredations, in the character of a privateer and with the flag of the Cuban insurgents, against the maritime commerce of Spain. The vessel will leave port with the United States flag, and at sea will replace it by that of said insurgents. Considering that this steamer, under the absurd pretense of sympathizing with the Cuban insurgents, has no other object than that of committing acts of piracy against Spanish commerce, it is earnestly hoped that the United States Government will use all the means it may deem necessary to avoid a proceeding so scandalous and so contrary to the law of nations.

The Government of the United States responded to this suggestion by giving immediate orders to its officials to prevent such a violation of law.

On the 22d of March Admiral Porter, acting for the Secretary of the Navy, advised the undersigned that proper instructions had been given to the commander of the North Atlantic squadron on this subject. On the 23d the Attorney-General advised the undersigned that such instructions had been given to the officers of the Government under his Department as it was hoped would lead to the prevention or punishment of such violations of law. And on the 5th of April the Secretary of

the Treasury informed the undersigned that the collectors of Fernandina and of Jacksonville had reported that no such vessel was fitting out at those ports. In fact, no act of piracy was effected or attempted upon the commerce of Spain by the Salvador, or, so far as the undersigned knows, by any other vessel. And when, nearly two years later, Mr. Lopez Roberts, in an elaborate note, which will be noticed hereafter, summed up the charges which Spain thought herself justified in bringing against the United States by reason of alleged Cuban expeditions from United States ports, nothing was said of the Salvador; and from the day when Mr. Lopez Roberts asked the interference of this Government to prevent a piratical expedition in that vessel, to the day of the receipt of Admiral Polo's note of the 2d of February, not one word of complaint was made to the undersigned respecting this vessel.

Admiral Polo now says:

Accordingly said steamer sailed from Key West at the beginning of the month of May following, without being obstructed in any manner, carrying on board 150 recruits and 2,500 cases of arms, which she landed on the 14th of the same month on a point of the island of Cuba called Nuevas Grandes, according to the testimony of one William C. Pincher, or Tinker, put in the hands of the Secretary of State on the 18th day of December, 1869, among several other documents, on which is founded a request for a recognition of belligerency in favor of the insurrection inaugurated by Cespedes.

It is presumed that the testimony thus referred to by Admiral Polo is that printed in the Senate Executive Document No. 7, at the second session of the Forty-first Congress, on the 110th, 111th, 112th, 113th, and 114th pages, under the name of William C. Tinker. A reference to this testimony shows that the affiant made only the following statement respecting the Salvador:

On the 14th of May last I landed at Nuevas Grandes from the steamer Salvador together with 150 men.

He says nothing about sailing from Key West—nothing about cases of arms. In point of fact, the undersigned was informed by the United States consul-general at Havana at that time that the Salvador was an English steamer, and that she made the voyage in question from the English port of Nassau, and not from Key West.

As Admiral Polo has deemed Mr. Tinker of sufficient credibility to be made a witness on behalf of Spain, the undersigned has examined his affidavit with care, and finds that it contains several important statements, a few of which are transcribed:

Upon landing I took eight men and went forward into the country. I had proceeded about twelve miles, when I came to the first encampment of Cuban troops at San Martin. There were about eighty men there, under command of a captain; they were armed and uniformed; those men were placed there as a *posse comitatis*, or guard to the civil court, which was then in session at that place.

I found the government completely organized, the various officers performing the duties and functions belonging to their offices. There were the departments of war, of finances, of the interior, and department of public instruction. The congress was then in session. I attended several of its deliberations.

I found the people exceedingly enthusiastic, apparently everywhere devoted to the government of the republic.

During the time I was in the island, I visited a considerable number of the encampments of the republican army, situated between Puerto Principe and Santiago de Cuba. I found in the district I visited about twelve thousand men under arms.

There are certain lines of defense which had been assumed before I arrived, and which were maintained up to the time of my leaving, and which, from late reports, I know to be still held. These lines were, from Nuevas to the north to Puerto Principe, a distance of, about eighty-five miles, and from Puerto Principe to Santa Cruz on the south. * * * Roads leading to the "five-city" district.

The undersigned is constrained to find in these statements of a witness now brought forward by the Spanish minister an apparent conflict with other information furnished to Admiral Polo, and cited by him, that "the insurrectionary uprising which took place at Yara in 1868 did

not find extensive sympathies in the island of Cuba," and that these causes "reduced the insurgents in the eastern extremity of the island to the condition of wandering bands, destitute of arms and munitions of war."

On the same day, with the memorandum respecting the Salvador, Mr. Lopez Roberts left at this Department another memorandum, also unsigned and undated, which was of the following tenor:

According to information received from New Orleans, Mobile, Jacksonville, Fla. Charleston, Savannah, and other southern ports, filibustering expeditions are being organized in said ports for the purpose of joining the insurgents in the island of Cuba.

It is hoped that the Government of the United States will renew the orders previously issued to the local authorities, (district attorneys, collectors of customs, United States marshals,) to the effect that, acting in harmony with the consuls of Spain or other duly authorized agents, such measures may be taken, agreeably to law, as shall prevent and defeat such acts of aggression against a nation friendly to the United States, and their ancient ally.

This information also was at once brought to the notice of the Attorney-General, the Secretary of the Treasury, and the Secretary of the Navy.

The admiral in command of the North Atlantic squadron at the earliest moment dispatched a vessel to New Orleans. The officer in command of that vessel reported that he was unable to discover that there was even a probability of any such expedition being seriously contemplated, although its organization had doubtless been discussed, and perhaps proposed. The information from the other Departments was of the same tenor.

The next case, chronologically, to which attention is invited by the note of the 2d of February is that of the Grapeshot, which is said to have sailed from New York with arms and passengers for Cuba in April, 1869, soon after the attention of the authorities of the United States had been specially directed by the minister of Spain, away from New York to New Orleans, Fernandina, Mobile, Jacksonville, and other more southern ports, as the contemplated points for Cuban expeditions. Neither this Government nor the alert agents of Spain apparently had reason to suspect that the Grapeshot was about to make a voyage inconsistent with the international duties of this country to Spain; and that there was nothing in her voyage, so far as known to this Government, inconsistent with such duties, may be inferred from the fact that no special complaint has been made to this Government by the representative of Spain in respect of it until now. Her purposes were disclosed to the British authorities at Turk's Island during her stay there on her way to Cuba, and they, apparently, did not regard it as a case where they would be authorized to interfere. One aspect of the case only suggests a possible reason for its presentation now: that the claims of the representatives of Messrs. Speakman and Wyeth, who were passengers on the vessel, and were executed by the authorities of Spain, as was charged by the United States, in violation of law, have been agreed to be referred to a judicial tribunal in Washington. The undersigned most respectfully declines to discuss these cases diplomatically, notwithstanding Admiral Polo's statement that he has "no doubt" as to the facts respecting these unfortunate men.

The next case to which Admiral Polo invites attention is that of the steamer Perrit. Admiral Polo says:

In three weeks after the said reply of the Secretary of State, [meaning the note to Mr. Lopez Roberts, of the 17th of April,] the steamer Perrit, the property of Messrs. Spofford, Tileston & Co., of New York, was falsely cleared at the custom-house of that city for Kingston, in the island of Jamaica, with a large cargo and three hundred military men, under the orders of the same Thomas Jordan who was one of the officers of the expedition of the Mary Lowell.

It may be assumed that there is no pretense that the custom-house knew that the clearance was a fraud, since Admiral Polo says nothing on that point, but is, nevertheless, at pains to allude to a newspaper-rumor that some detectives in New York knew what was going on, and asserts that this rumor has never been denied. This Government had no means of knowledge of the movements of the Perrit beyond that which it might derive from the records of its custom-house. The undersigned will not do the amiable and intelligent minister of Spain the injustice to suppose that in his remarks about the newspaper-rumor he considered it of any serious importance whether the affirmations in an obscure paragraph in a newspaper were or were not officially denied by this Government.

It is now known that no armed or organized expedition went on the Perrit; that it consisted only of unarmed passengers, mostly Cubans, returning home—about two hundred in all.

The attention and vigilance of this Government were directed on that day by the minister of Spain in quite another direction. Three weeks from the 17th of April would be the 8th of May. But late in business hours on the 7th of May Mr. Lopez Roberts informed the undersigned that he had intelligence to the effect that the steamer Quaker City was being fitted out and armed at New York for the purpose of cruising against Spanish commerce. The undersigned telegraphed immediately to the marshal of the United States at New York to inquire into the matter with a view to further proceedings, and as soon as possible the next morning he laid the matter officially before his colleagues, the Secretary of the Treasury and the Attorney General. Each of those officers took prompt action, and the result was that the Quaker City was detained until, some weeks later, this Government was officially notified by the British minister at Washington that she had been transferred to a British subject, and was laden with flour, and bound to Jamaica.

There is no doubt that both the representatives of Spain at Washington and this Government had reason to think at that time that vigilance was necessary to counteract the activity of the friends of the insurrection. The steps already recounted show that. The information respecting the Quaker City came on the 7th of May, and she was immediately put under watch. On the 13th the undersigned submitted to the Attorney-General the expediency of instructing the judicial officers in regard to the steamer Atlanta at Philadelphia, the steamers Memphis and Santiago de Cuba at New York, and the steamer Florida at Chester, and the same instructions were sent respecting them that had been sent in respect of the Quaker City. Although it turned out in the end that none of these vessels were intended for the insurgents, a constant watch was kept on them until this fact was established.

At the same time the minister of Spain was informed that the United States attorneys of the several districts would receive directly from the Spanish consuls any facts they might be pleased to communicate respecting any violation of the neutrality laws of the United States, and was told that if proof should be furnished, judicial proceedings would be at once set on foot for the purpose of preventing or punishing such violations.

About this time, also, proceedings were commenced in the courts in the city of New York against several leading Cubans, supposed to be concerned in these attempts to violate the sovereignty of the United States. The parties were arrested, and released upon giving security that they would respect the laws.

Admiral Polo is pleased to say, in respect of the proceedings against these persons, that—

Only the district attorney at New York or the Attorney-General at Washington could have compelled the trial and punishment of these malefactors, but up to this day nothing of this kind has been attempted. Ryan escaped by force from the officer who had him in custody; but, although he was arrested at a subsequent period, never was he punished for any of his offenses until he was captured or the *Virginus*.

The undersigned takes the liberty to remind Admiral Polo of certain circumstances connected with the trial of Ryan and Jordan, with which he was probably unacquainted when he wrote his note of the 2d of February.

On the 27th of November, 1871, the district attorney of the United States for the southern district of New York addressed a letter to the counsel for the Spanish government in New York, in which he informed them that the United States circuit court would resume its session on the 6th of December following, and that it was his intention to call for trial at that session the indictment against General Jordan, and also to move the trial of William A. C. Ryan, adding :

You will recollect there are three indictments against Ryan, two for breaking the neutrality laws and one for escape and rescue from the marshal. I desire you to aid in procuring the witnesses for the Government, and to furnish all the assistance that you deem expedient.

When the circuit court convened, the district attorney found himself without the witnesses which the counsel for Spain had, on the 29th of November previous, given assurance would be present, and, under these circumstances, he was forced to have the several cases set down for hearing at a later day of the term. Accordingly, Jordan's, the first case, was fixed for trial on the 11th of that month. The district attorney then caused the following letter, on the 6th of December, to be addressed to the counsel of the Spanish government in relation to the witnesses, and the importance of securing their attendance, in order to enable him to proceed with the trial of Jordan :

I have to state that, in pursuance of your letter of the 22d of November, giving names of witnesses to be used in the prosecution of Thomas Jordan, subpoenas were made out for the persons named, and on the 1st instant delivered to the United States marshal for service, addressed respectively to the places given in your letter as the residence of such witnesses. F. A. Redburn, named in your letter as one of the witnesses, called at my office, and professed his willingness to accompany the deputy charged with the duty of serving the subpoenas, and I introduced him at the marshal's office where he promised to accompany the officer. I learn that he did not return to go with the marshal, as he had agreed, but in his place a person named Frederick R. Lowe appeared, and expressed his intention of replacing Redburn. On the 2d instant he wrote to the deputy, Mr. Tierny, in charge of the process, and agreed to meet him on Sunday night at Jersey City, and accompany him on his search for the witnesses. This appointment he failed to keep, and the marshal was obliged to proceed alone. He reports to me that he visited Port Tobacco, Md., given as the address of the witness Boyd; that he could find no person of the name in or about the place, which is a small village; that he inquired concerning Boyd from many of the inhabitants, and from the mail-carrier, who all assured him that no person of that name lived in the vicinity or had lived there for several years past. In Baltimore, in spite of diligent search, he could not find any George Bush who answered to the description of the person he was directed to secure. He further stated that the address must have been incorrectly given in your letter, as Franklin street is at a considerable distance from Druid Hill Park.

He then went to Paterson to secure Henry Raymond, that town being given as his residence, and having been told by Lowe that Raymond was employed in the machine-shop of McGurniss & Co., in that place. There is no such shop in Paterson. Inquiry that he made at other machine-shops and among machinists and workmen in the place failed to secure for him the person he sought.

Deputy Allen was sent to Lime Rock in search of Georga A. Mason, but returned equally unsuccessful. The only witnesses I have yet seen of the list furnished by you

are Lowe and Redburn. Lowe stated to me that he could procure Cameron, but has not yet done so. It will be impossible to do anything in the case of Jordan without the testimony of these witnesses, who cannot be found by any means at our disposal, and the case being set down for the 11th instant they should at once be procured.

On the next day, December 7, the district attorney again wrote to the counsel, expressing his willingness on behalf of the United States to pay the expenses of any person who might be designated by these gentlemen to accompany the officer charged with the service of the subpoenas. In this letter he says :

Subpoenas for such witnesses are now ready, and an officer will be kept prepared to start as soon as the person you may send, who will be able to designate to him the parties to be served, shall appear. I particularly request that you will send the person referred to without delay, as the cause is on the calendar for the 11th instant.

And again on the same day, December 7, still another letter was sent to the counsel informing them that in the indictments against Ryan he has caused subpoenas to be issued for the witnesses whose names they had furnished, adding :

I specially request that you will at once, in accordance with your offer, co-operate with the Government in obtaining the presence of those witnesses. I will make a further effort, by sending the marshal again with the subpoenas to each of the places named by you, and will pay the expenses of any person whom you or the Spanish consul will send to accompany the marshal, to point out to him the persons wanted as witnesses, and I repeat the request that my assistant has already made to you, that such person be promptly furnished.

The case (of Jordan) has been noticed for trial at each successive term, and your Mr. Craig has been advised of that fact, and requested to produce the witnesses, both by myself in person and by both my assistants, without any compliance or attempt to comply with the request. At each term Jordan has appeared, and his counsel has persisted on the case being tried, of which fact you have been repeatedly advised, and the Government, through the neglect on your part to carry out the assurance given when the indictment was formed, by producing the necessary witnesses or furnishing any information where they might be found, has been compelled to ask for continuance after continuance.

On the libel of the Florida you furnished me with affidavits fully justifying the seizure of that vessel, and, if true, her condemnation; but when the claimants compelled the trial, not one of the affidavits was produced by you, although repeatedly urged to furnish them; nor could one of the witnesses be found on the subpoenas issued by this office. Mr. Craig acted as counsel on that trial, and yet his vigilance was insufficient to aid us in finding the witnesses on whose affidavits, prepared by himself, the libel was issued.

On the 8th of December, in another letter to the counsel, the district attorney said :

I ask you explicitly, whether or not you intend to furnish a person, Mr. Redburn, or any one else, to accompany the marshal, and point out the witnesses for whom he is armed with process. * * * * *

Mr. Redburn has seen the marshal, and been assured that his expenses will be paid; he has arranged with the marshal to meet him at Taylor's Hotel, in Jersey City, this evening at 8.30, to take the 9.29 train; the marshal will be there ready to go, if Mr. Redburn keeps his engagement; I request you to see that he keeps it. The Government is using every effort to find the witnesses required by you, and has gone beyond the usual course in assenting to your proposition to pay the expenses of the person you promise to furnish to point them out.

Notwithstanding these unwearied efforts on the part of the district attorney, Mr. Redburn did not keep his appointment, nor did any one else appear in his place to accompany the marshal. The witnesses were not forthcoming on the 11th, the day set for the trial of Jordan, and the Government was again obliged to apply for a continuance.

In the face of these repeated disappointments, the district attorney again, on the 28th of December, addressed a letter to the counsel of Spain, informing them that the circuit court would resume its session

on the 2d of January, 1872; and that he then intended to press the cases "of Jordan and Ryan to trial," adding:

I respectfully renew my request that as counsel for the Spanish authorities you furnish me with the witnesses material to establish the alleged violation of the neutrality laws in accordance with the assurances given to me when the prosecution against Jordan was commenced.

It cannot be contended, in face of these efforts on the part of the prosecuting officers of the United States, that the failure to bring Jordan and Ryan to trial was the result of any want of earnestness or of zeal on the part of the United States or of its officers. The witnesses on whom Spain relied in her allegations and in her charges were diligently sought, with great pains and at great expense, by the officers of this Government, without receiving any aid from Spanish agents in the search. If they existed they could not be found. Consequently, the Government being unable to adduce evidence upon which a conviction could be asked, the prosecution had to be abandoned. The responsibility thereof rests elsewhere than with this Government or its officers.

In an early stage of these proceedings the President, as will be shown, had put into exercise the extreme executive power of the Government to stop vessels without the intervention of judicial process; and the various departments of the Government exerted their respective functions through the wide extent of country, and in almost every port of its seaboard, either upon its own suspicion of improper movements or upon suggestions received through the Spanish minister, whose consuls, by the incessant employment of detectives, were frequently furnishing complaints, which were examined; and, as is apt to be the case with information thus obtained, and which is generally procured from persons of most questionable character, and who, for a consideration, make statements which they either know to be false or of which they have but little knowledge, they often found themselves set upon investigations which could result in no useful ends.

The information given to the consuls through the detectives often proved entirely unfounded, and seemed to have been designed, first, to obtain money; and, second, to keep the Spanish representatives in this country in a state of excitement, and to divert their attention, and thus to embarrass and annoy both governments.

The witnesses whose *ex-parte* affidavits furnished ground for the allegations of the Spanish consuls, were either wanting when it became necessary to establish those allegations in a court of law, or, if present, failed on the cross-examination to maintain their stories.

The characteristics of vagueness, indefiniteness, and absolute uncertainty have marked all the information furnished or proposed to be furnished by Spanish agents, attorneys, or counsel, since the outbreak of the insurrection, as a foundation for proceedings at law against the parties complained of.

But this Government, nevertheless, carefully examined all the evidence that came within its reach, with an anxious desire to miss nothing which might help it perform the full measure of its friendly duty toward Spain. For many months it was under the constant and severe strain of the effort to maintain its obligations as a friendly power.

In order to consider the complaints of Admiral Polo respecting the proceedings against Jordan and Ryan, the undersigned has been obliged to depart from the chronological history of the acts done by the United States in the performance of their duties toward Spain. To return. On the 17th of June, 1869, the Spanish minister at Washington informed the undersigned that he had positive and certain information of the or-

ganization in the city of New York of a military expedition, which was to embark from that port to the island of Cuba; that the expedition consisted of a large number of individuals who had been recruited and enlisted as soldiers by the agents of the Cuban insurrection; and that they were to take their departure within one or two days.

The Attorney-General was immediately informed of this, and the district attorney for New York was instructed on the subject. He replied by telegraph that action had already been taken by him. The officers of this Government, it therefore seems, had already acted in this important matter before the undersigned received the news from Mr. Lopez Roberts. As the result of their action most of the persons who were proposing to take part in the expedition were captured, and the expedition, which was to have gone out in the Catharine Whiting, was entirely broken up. The Catharine Whiting and the three tugs McCool, John Chase, and Maybe, and the schooners Fancy and Winona, laden with arms at Milford, Conn., were captured; and vessels were simultaneously sent to Newport, to the mouth of the Delaware, and to the entrance to Chesapeake Bay, a coast-line of several hundred miles, to intercept any who might have escaped, and who might still be bent upon pursuing the expedition.

On the 13th of July, 1869, Mr. Lopez Roberts informed the undersigned by note that he had heard of a number of persons enlisted for a military expedition to Cuba, who were quartered on Gardiner's Island, near New York, where they were detained against their will by officers of the expedition, and asked that the prompt orders required by the urgency of the occasion might be issued to prevent the departure of the expedition.

On the same day the President empowered the district attorney and the marshal at New York each with the extraordinary powers authorized by the eighth section of the neutrality act of 1818; and identical instructions were issued to each of them, from which the undersigned takes the liberty of making the following extracts:

Orders have been directed to the commandant of the navy-yard at Brooklyn to place at your disposal such of the naval forces of the United States as you may require, for the purpose of preventing the carrying on of the military expedition referred to in the note of Mr. Roberts, or any other expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign power or state, or of any colony, district, or people with whom the United States are at peace, and more especially against the territories or dominions of Spain or against the island of Cuba.

The President desires and directs that you capture all persons engaged in any and every such unlawful enterprise as above referred to; that the leaders and principal instigators be held to be dealt with according to law.

Believing that many thoughtless and inconsiderate persons may have been misguided, deceived, and led into improper and unlawful engagements, under a sympathy for a people struggling for emancipation from oppressive rule, and for self-government and more liberal institutions, without due consideration of the unlawfulness of their conduct, and under the temptation of promises held out to them, he authorizes and directs the district attorney of the southern district of New York to release and discharge such of the privates or persons in inferior position or command in any such expedition or enterprise as he shall think may be discharged, with due reference had to the requirements of law and to the future enforcement of the laws and the maintenance of the peace and good order of the country, on such recognizance or security, or on such terms and conditions in each case, as to him shall seem expedient. But he directs that no person engaged in any such expedition or enterprise, who has been already taken in any recent similar unlawful expedition or enterprise, or who has been indicted for any violation of the neutrality laws or other laws of the United States, or who has given bail to keep the peace, &c., shall be discharged under this discretionary power given to the district attorney.

The district attorney is directed to make early investigation in order to the execution of this discretionary power, and for the purpose of bringing to punishment those

who are leaders and principals in any such unlawful expedition or enterprise, or who shall be the second time arrested, or have violated their engagement to maintain the peace.

If you find that the naval forces thus placed at your disposal be not sufficient, or that any part of the land forces of the United States be necessary for the proper execution of the law, you will immediately advise me.

On the 16th of August, 1869, it being suggested that preparations were making for hostile expeditions against Spain, in aid of the insurgents in Cuba, on or near Saint Croix River, and particularly at Eastport and Calais, the district attorney for that district was instructed to use the utmost diligence in inquiring into the subject, and, if he found evidence sufficient to warrant it, to take all steps necessary in order to prevent violations of law, and to punish offenders.

On the same day the *Hornet* was detained at Philadelphia, under an order issued on the 13th of August. She was arrested, entirely on the motion of this Government, after she had actually begun her voyage with a clearance for Halifax. She was detained some time without anything appearing against her. She was then released, and she made her voyage according to her clearance. Returning thence, after having been fitted out in an English port, she is said by Admiral Polo to have taken on board men and coal off the coast of Massachusetts. She then put into Wilmington, in North Carolina, where she was libeled for a violation of the laws of the United States, and was condemned, and the hostile expedition against Spain, which it was in contemplation to make in her, was broken up.

The *Hornet* was detained at Wilmington until June, 1870, when she was released on bond. She came to New York, and was libeled again on the complaint of the Spanish consul. What then took place may be best described by transcribing a passage from a note from the undersigned to Mr. Lopez Roberts, dated December 28, 1870, in reply to one from Mr. Lopez Roberts, dated December 17, 1870. The undersigned then said that it appeared—

That the *Hornet* having been seized on the complaint of the Spanish consul only two months before the date of the correspondence, and a hearing, in which the Spanish consul took part, having resulted in the discharge of the vessel, no subsequent proof or anything in the nature of legal evidence other than a repetition of that which had already been passed upon by the court, and had been decided to be insufficient for the detention of the vessel, had been furnished by the consul or by any other Spanish officials.

The subsequent career of this vessel is thus described in the memorandum accompanying the counter-case of the United States at Geneva, which is referred to in Admiral Polo's note :

She afterward, in December, 1870, sailed from New York "for Saint Thomas and a market, then to a port or ports that the captain may direct, and back to a port of the United States, not exceeding six months."

She went to Nassau, afterward to Port au Prince; then to Aspinwall, where it is alleged that a filibustering expedition against Cuba went on board of her, which expedition was afterward landed on the coast of Cuba. She then went to Port au Prince, where she was, as it were, blockaded by the Spanish gunboats for several months.

In January, 1872, the Government of the United States sent a man of war to Port au Prince to bring her back to the United States, where, upon her arrival, proceedings were taken for punishing any violation of the neutrality laws of the United States.

It is of little consequence now what was the character of the *Hornet*, so far as the purposes of this discussion are concerned. In the only moment when she was in position to have done injury as an armed vessel, she was libeled and condemned by the courts of the United States. But it is not to be assumed that the undersigned assents to all of Admiral Polo's opinions regarding that vessel.

The first arrest of the *Hornet* at Philadelphia was made August 16, 1869. It has been seen that on the same day the officers in Maine were cautioned to be vigilant. On the 21st of the same month the attention of the Acting Secretary of State was called to alleged shipments of arms and ammunition at Cedar Keys and Fernandina, in Florida, and Mr. Potestad, the secretary of the Spanish legation, was informed in reply that this Government had already, four days before, called the attention of the district attorney and marshal in Florida to the subject, and that the senior officer in charge of the North Atlantic squadron had been apprised of the information.

On the 31st of the same month the active agents of the United States in Georgia telegraphed to the Attorney-General that eighty-three persons enlisted for the Cuban army would try to leave for Florida that night. They were immediately ordered by telegraph to stop the expedition and to indict the parties. The law-officers met with resistance and telegraphed for aid. They reported that the United States marshal had been overpowered. The Treasury immediately, by telegraph, put the revenue steam-cutters at the command of the proper authorities to stop the alleged expedition; and on the 4th of September, General Terry, commanding the Department of the South, was authorized to aid the civil authorities in maintaining the law. On the 6th of September the district attorney was able to say to the Attorney-General:

I have the honor and satisfaction of reporting herewith the result of our effort to capture the expedition *en route* for Cuba. * * * I feel confident in asserting that the course pursued has completely broken up the expedition, at least for the present.

On the 13th of the same month this Government had received information which induced it to believe that arms and ammunition designed for Cuba were being shipped to Galveston, to be used there in arming hostile expeditions against Cuba. The district attorney of Texas was therefore directed to watch carefully for any indications of such expeditions, and to act promptly in preventing any violation of the neutrality laws of the United States, and in punishing all persons who violated them.

On the 28th of the same month the Secretary of the Treasury was requested by the Acting Secretary of State to order the proper officials to watch a suspected vessel in New Orleans, in order to prevent her from engaging in an armed expedition against the Spanish authorities in Cuba.

On the 23d of October, 1869, the undersigned was informed by the Spanish minister that the steamer *Lillian* had sailed from Cedar Keys on the 5th of that month, with about 450 men on board, and that she had been seized by a British man-of-war in British waters. The undersigned subsequently learned from other sources that she had been libeled and condemned for a violation of British laws.

In the same note of the 23d of October, 1869, the Spanish minister complained of the want of energy shown by the officers of the United States in the pursuit of the *Lillian*, which he asserted to have been a breach of neutrality on the part of the United States. And Admiral Polo now supplements the averment by saying that the Government of the United States had ample information and notice with regard to this expedition.

Whatever notice this Government may have had respecting this expedition, it gathered through the vigilance of its own officers. The representative of Spain furnished none until after it had been captured and broken up. When the United States naval officers in the Gulf learned

that the expedition was about to start, the *Tuscarora*, a man-of-war of the United States, was immediately dispatched to intercept it. But she was unable to proceed to Cedar Keys in consequence of the bursting of her steam-pipe. There was no lack of diligence on the part of this Government. The undersigned is also happy to add that there was no injury to Spain, since the expedition was intercepted and broken up, so that it never reached Cuba.

On the 8th of November, 1869, the marshal of New York informed the Secretary of State that his office was employing one superintendent and two or three detectives (as circumstances might require) to learn of infringements of the neutrality laws. He was told that his course was approved, and was instructed to continue his vigilance.

On the 10th he informed the Secretary of State that he inclined to the opinion that measures were on foot to get off a Cuban expedition. The Secretary of State, thereupon, on the 11th, asked of the Secretary of the Navy if a man-of-war could be detailed to assist in preventing such unlawful expeditions. The Secretary of the Navy thereupon instructed the port admiral of New York to render every assistance in his power in preventing the departure from New York, or that vicinity, of any unlawful expeditions in aid of the Cuban insurgents. The Secretary of the Treasury at the same time placed a revenue-cutter at the command of the marshal for the same purpose. If any expedition was contemplated at that time, it is believed that it was prevented by these efficient measures.

On the 15th of November the Attorney-General called the attention of the Secretary of State to the case of the steamer *General Dulce*, at Philadelphia. It appeared that some circumstances excited suspicion that she might be engaged in an illegal expedition; but, on examination, it was reported that there was nothing whatever of a suspicious character, either in the vessel or her outfit.

This brief but necessarily imperfect narrative of the exertions made by the United States during the year 1869 to perform their international duties toward Spain, cannot fail to satisfy all candid persons that they exerted all the diligence in that respect which the most captious critic could require. Their active vigilance extended over a coast-line, from Eastport to Galveston, of upward of twenty degrees of latitude and about thirty degrees of longitude, with infinite sinuosities, and bays, and outlying islands. And yet it was ever and equally active. Wherever the extraordinary means of intelligence which they employed gave notice of an apprehended movement, their equally extensive means of action anticipated and prevented it. To have failed occasionally to thwart so widespread combinations would have been no subject for just crimination; because no mortal foresight can apprehend and guard against every contingency. But the undersigned avers, without fear of contradiction, that the record shows no such failure.

The undersigned does not understand that it is contended that between the sailing of the "*Lillian*" in October, 1869, and the sailing of the *Virginus* in October, 1870, any vessel except the *Upton* sailed with arms.

On the 22d of May, 1870, the undersigned received a telegram from the Spanish minister, from New York, in which it was averred that the "*George B. Upton*" had cleared from New York on the 14th of that month, ostensibly bound for Port au Prince, and was then lying off Montauk Point, at the east end of Long Island, in communication with the shore, and within the jurisdiction of the United States, and was en-

gaged in completing her fitting out for a piratical cruise against Spain, in violation of the neutrality laws of this country.

The undersigned at once communicated with the Navy Department, and a vessel was dispatched to Montauk Point, with several civil officers on board, in order to take possession of the "Upton" and proceed against her in the courts of law. On arrival at Montauk Point, the civil officers landed, and being unable to learn that any strange vessel had been there, reported their opinion that the information concerning the "Upton" was entirely without foundation. A communication from Mr. Lopez Roberts to the undersigned, on the 29th of June, 1870, showed that they were correct in that opinion; for it was then alleged by Mr. Lopez Roberts that the "Upton," after leaving the port of New York—

Proceeded to the vicinity of Barnegat light, and there communicated with the schooner "Quickstep," which (he said) had been previously sent from that place to meet the "Upton," and took from on board of her a large quantity of arms, ammunition, clothing, and other articles of war for the use of the expedition then on board of the "Upton," and of the insurgents in Cuba.

By the same note of Mr. Lopez Roberts it was disclosed, not only that he had been thus deceived in regard to the movements of the "Upton," but also in regard to her character. Instead of attempting a piratical cruise against Spain, as had been charged by Mr. Lopez Roberts, her mission was that of the peaceful conveyance of men and merchandise.

It cannot be contended that this Government had any knowledge or any reason for suspicion of the purposes of the voyage. Those who had charge of her, having had personal experience of the vigilance of the United States, and of their purpose to prevent all violations of their sovereignty, succeeded in concealing their designs, not only from this Government but from the ever-vigilant agents of Spain in New York.

Before taking up the case of the *Virginus*, it will be more convenient to first notice the remaining vessels referred to by Admiral Polo, but without comment on his part, viz: the "*Florida*," the "*Edgar Stewart*," the "*E. D. Webster*," the "*Anna*," and the "*Fanny*." The archives of this Department reveal nothing respecting the *Webster* and the *Anna*.

Respecting the *Florida*, they only show a complaint on the part of this Government of an interference by a Spanish gunboat with that vessel on the high seas, to which complaint no response has been given.

Respecting "the *Fanny*," it appears that on the 7th of June, 1872, the minister of Spain informed the undersigned that "the *Fanny*" had sailed the day before from Baltimore, and that her papers were fraudulent, and that he believed that the object of the steamer was to effect a clandestine landing of arms and other war-material, and perhaps even of men, on the coast of Cuba. He added that he had evidence that the customs officers of the port had had suspicions that the papers of the vessel were fraudulent. This communication being made after the vessel had sailed, the undersigned could only promise to make inquiries, which resulted in showing that the collector of customs at Baltimore, thinking it possible that the "*Fanny*" might be intended to form part of an expedition, had ordered her to be searched. The searching officers had reported that she had no contraband cargo. The collector had then ordered a revenue-cutter to follow her to sea, and to intercept any expedition which might appear to join her. The cutter kept her in sight until she was about seventy-five miles southeast of Cape Hatteras and about thirty-five miles off land, and there lost sight of her. Up to that time no expedition had joined her.

The facts respecting the "*Edgar Stewart*" appear to be these: On the

25th May, 1872, the Spanish minister informed the undersigned that she had sailed from the district of New London, where he charged that she had been fitted out for filibustering purposes, and he submitted some affidavits which he claimed implicated the collector in a knowledge that she was destined for an illegal purpose. As the vessel had sailed, the undersigned could only ask an investigation of the charges against the collector. The decision of the Treasury was, that while the investigation exonerated the collector from positive blame in the matter, the circumstances, which appeared to have been known to him by rumor at least, would have justified him in making further and careful inquiries; and he was told that, in any similar case that might arise in the future, he would be expected to exercise greater vigilance in ascertaining the facts. This vessel is now in Baltimore. The minister from Spain has submitted affidavits in order to establish that she was guilty of a violation of the neutrality law of the United States, at New London, in 1872; also, that she contemplates another violation; also, that she obtained her clearance at New London in fraud of the navigation laws. The affidavits, as fast as received, were submitted to the Attorney-General, and the vessel has been libeled on the alleged charges, and is now in custody.

The schooner "Resolute," a vessel not referred to by Admiral Polo, about March, 1872, sailed from New York to Jamaica, without exciting the suspicion of the Spanish agents in New York or of this Government. It is probable that there were no reasons at that time why suspicion should have been excited. From Jamaica she went to Saint Mark's, and from Saint Mark's to Portau Prince; while there, she was, on the 4th of June, 1872, transferred to Augustus Cheaveau, described in the instrument of transfer, a copy of which afterward came into the possession of the United States, as "a citizen of the republic of Cuba." There she took in ammunition and arms, and proceeded northward, landing Cheaveau at Charleston. She hoisted an ensign called "the flag of the republic of Cuba," and professed to be a vessel belonging to the navy of such so-called republic. With the change of character she took the name of "Pioneer." Coming near the waters of the United States, this vessel was seized by the United States revenue-cutter "Moccasin," and taken to Newport, R. I., where she was libeled and condemned.

Having now disposed of the extraneous matter which has been introduced into the discussion of the case of the *Virginius*, the undersigned is prepared to consider Admiral Polo's remarks upon that vessel.

The *Virginius*, formerly a blockade-runner, was sold by the United States to one Paterson, a citizen of the United States, apparently an innocent person. He proved to be an agent of the Cuban insurgents, but that fact was not known to the Government of the United States, nor had it any means of knowing it.

She was registered at the custom-house in New York, and took out a clearance for Curaçoa. Her custom-house bond was in the regular form, except that it had but one surety, a circumstance not unusual, and which will be noticed hereafter. There was nothing in her manifest or papers, or in the circumstances connected with her departure, to attract attention or to excite suspicion, and she left, like any of the other hundred vessels leaving the same week, without attracting the attention of the Spanish consul or of the officers of this Government.

The labor which Admiral Polo bestows to endeavor to connect the United States with the subsequent proceedings of the vessel, before her capture by the *Tornado*, shows that he comprehends the inability of maintaining that the United States are liable for the consequences

of any acts of this vessel by reason of what took place at the time of her sailing from New York.

The *Virginus* is understood to have made her voyage to Curaçoa. Admiral Polo, indeed, asserts that her true destination was not Curaçoa, and he seeks to find in the character of her cargo, (breadstuffs, saddlery, and clothing,) reasons why she should have been suspected by a customs-officer. But the undersigned understands that she actually did go to Curaçoa, which is the best answer to an allegation that she was not to go there; and the undersigned cannot persuade himself that the accomplished minister of Spain will seriously contend that, because her innocent manifest did not produce conviction in a customs-officer's mind that she was on an illegal errand, this Government should be made responsible for her acts. Moreover, the statistical returns of the commerce and navigation of the United States (like those of most other manufacturing and commercial nations) show that the exportation of breadstuffs, saddlery, and clothing is not an unusual occurrence in the course of legitimate commerce, and that, if the lading of such articles is to be a cause of suspicion, a large amount of honest trade must be placed under vigilance. The commerce of the world will not allow the laws of contraband to be carried to this extreme. The proposition needs only to be stated to be repudiated.

The *Virginus* was recognized as a vessel of the United States from time to time at different ports in the Caribbean Sea, thus showing that she was engaged in commerce there. Admiral Polo records, with what purpose the undersigned is at a loss to imagine, an interview between a Spanish naval officer and a naval officer of the United States, in which the former denounced her to the latter as a "pirate," without a single indication of what is known as "piracy," and asked him to take her to the United States; the gallant officer of Spain, with the earnestness and unselfish generosity characteristic of his profession, but without official responsibility for the proposal he made, and without evidence of the extent of his personal responsibility, offering, if Spain should fail to establish there the fact of her "piracy," to himself assume the obligation of paying all damage.

The undersigned will not do Admiral Polo the injustice to suppose that he himself would regard the *Virginus* as a "pirate," or that, had the position been reversed, and had an American naval officer made such an offer to Admiral Polo, he would for a moment have dreamed of entertaining it.

That the vessel had none of the characteristics of a "pirate," as defined by international law, is beyond doubt. If Sheppard and Varona testify, as is alleged, to the proposition to attack the commerce of Spain, neither they nor others even intimate that such an attack was made. The declaration may prove the witnesses willing to have become pirates; it may not strengthen their credibility as witnesses in behalf of Spain; and yet Spain cannot impeach them when they say that they stopped short of the act. And yet it is upon such evidence that the reiterated appellation of "pirate" and denunciations of "piracy" rest. If all that Spain alleges against the *Virginus* be admitted as proven, it would fail to constitute what is recognized as piracy by the nations of the world.

Admiral Polo says that the *Virginus*, after leaving New York, "was efficaciously protected by the consuls and men-of-war of the United States; and he then adds, "thanks to which protection, she succeeded in forming for herself, outside of the material territory of

the United States, but within their legal jurisdiction, a sort of base, whence the *Virginus* was enabled to commit hostilities against Spain."

As the *Virginus* never returned within the material territory of the United States, after her departure from New York in October, 1870, the last phrase quoted in Admiral Polo's note may be important in some future contingencies, in its assertion of the extent of the legal jurisdiction of a state beyond its geographical limits. But it need not be here commented on further than to say that the idea of a vessel converting itself into "a sort of base," whence that same vessel carries on hostilities, involves a paradox resulting from the effort to apply the doctrine of the duty of a state not to permit its ports or its national waters to be made the base of naval operations by one belligerent against another, to a case where no belligerency is recognized as existing, and where, in fact, no hostile naval operations have occurred.

Of what military expedition the *Virginus* was to form part it is difficult to comprehend. The present most intelligent minister from Spain charges that she was to form part of some military expedition, but he has not shown either her capacity or fitness to take part in a military expedition, or that there was at that time any military expedition fitting out, of which she was to form a part, or with which he in any way connects her. Admiral Polo's watchful and indefatigable predecessor, who never failed to present in the strongest light all that his consuls could obtain through the detectives, and the questionable class of paid spies and witnesses, in a note addressed to the undersigned on the 17th of December, 1870, more than ten weeks after the *Virginus* had sailed from New York, in which he enumerated the vessels of which he thought he had cause to complain, had no suspicion that the *Virginus* had sailed with any evil purpose, and makes no reference to her.

If she had eluded the argus eyes of the detectives of the Spanish government, the inference is irresistible, either that her objects and designs at the time of her sailing were not improper, or if they were at that time such as the Spanish minister now alleges them to have been, they were so carefully covered and concealed as to escape the vigilance of the Spanish officials as well as those of this Government.

It has already been remarked that in view of the extent of the territory of the United States and the long range of sea-coast, and of the number of disaffected Spanish subjects in the country, the undersigned had expressly given authority to the Spanish minister (Mr. Roberts) to instruct his consuls, in case any information of illegal actions or intents came to their knowledge, to confer directly with the local Federal officers. They exercised the right thus accorded them, and if there had been any reason for suspecting the *Virginus* at the time she left the United States they would have known thereof. But she sailed unsuspected alike by the Spanish minister, the Spanish consul, and their detectives—unsuspected also by the United States.

Admiral Polo endeavors, however, to make certain alleged irregularities, or acts of non-observance of some of the requirements of the shipping acts of the United States, evidences of wrong intent on the part of the *Virginus*, and therefrom to deduce some responsibility on the part of the Government.

The shipping-laws of the United States are municipal regulations which it prescribes for itself, and to its own citizens, and the administration of which it intrusts to its own officers. It judges of the requirements and of the formalities to be observed to give its national character to private trading-vessels, and reserves to itself the punishment of evasions or omission of those requirements or formalities.

In the exercise of this sovereign right, the United States have required that a certain bond be executed with certain securities, and certain oaths be taken, for the obtaining of a register by a merchant ship. It requires that the ownership be in its own citizens.

Should a register be obtained in fraud upon its laws, or having been obtained, should the ownership be changed otherwise than in conformity with its laws, it has prescribed the penalty and the consequences. It enforces this penalty, and the punishment denounced against violations of these laws, as it does with respect to other municipal enactments of its own volition and in its own way. Foreign states are not expected to interpose, or to prescribe to the United States the mode or manner of enforcing its municipal laws, or the degree of leniency or the measure of severity to be observed toward those who may be supposed to have violated its enactments.

The omission to comply with the requirements of the laws may, at the option of the Government, deprive a vessel of its national character and of its right to the protection of the Government. This result may follow from innocent omissions and from accidental mistakes. The haste with which many commercial transactions are conducted has led in many instances to carelessness, and has, as is well known, been attended with omissions which, if enforced, might deprive some of the well-known and most honest of the mercantile marine of a government of the protection of its national character, if the strict letter of the law were in all cases to be enforced.

Knowing this to be the fact in its own case, as well as in that of every commercial nation, the United States does not feel called upon in every instance to exact the pound of flesh and to enforce the utmost penalties of the law. It recognizes a difference between error and falsehood, and has not been guilty of the want of logic to enact that the omission to sign a bond in the prescribed form necessarily makes the register "false," or of the still greater fallacy of reasoning and of logic that "the falsity of the register, of the ship's roll, of the list of passengers, of the manifest, and of the clearance," shows that the voyage of an unarmed vessel, admittedly made in accordance with her clearance, was a military expedition against a country which the vessel did not visit for months subsequently, nor until she had visited divers others countries.

The long extract to which his excellency the Spanish minister calls the attention of the undersigned as doctrine laid down by a judge of the Supreme Court of the United States, is, unfortunately for the citation, not to be found in any book of decisions or of judicial authority. It could not be accepted before any judicial tribunal as authority or as a definition of law.

It is feared that his excellency the Spanish minister has been misinformed as to the nature and importance of this alleged expression, and has been misled by some newspaper extract or report of possibly some charge to a grand jury by some person who may at some time have been a judge. But his excellency may be assured that if the expressions which he has quoted were made by a judge of the Supreme Court of the United States, they certainly were not made by one who served out the term for which he was appointed; and that whatsoever of personal respect may be due to the unnamed author, the authority of the high court of which he is supposed to have been a member cannot attach to the citation.

The undersigned, while (denying the untenable doctrine advanced by Admiral Polo, that in case it should be made to appear that an expedition hostile to Spain had unlawfully departed from the shores of the

United States, the burden of proof would be on them to show that they had used due diligence to prevent it) feels that he has fully established that this Government, from the outbreak of the insurrection at Yara to this moment, has unremittingly and vigilantly performed the full measure of its international duties toward Spain. Even, therefore, could it be shown that Spain had suffered any appreciable injury which could be made the subject of computation of damage between nations, by reason of any of the vessels referred to in Admiral Polo's note of the 2d of February, no responsibility for such injury could be entailed upon the United States.

But the undersigned apprehends that not even the ingenuity and learning of Admiral Polo can, after the great precedent at Geneva, establish that claims of the nature now advanced on behalf of Spain do "constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation, or computation of damage between nations."

Admiral Polo indeed asserts that private injuries may have been inflicted by the *Virginius*. But no proof is offered of such injuries; and the undersigned is so fully persuaded that no private injuries were inflicted by any of the vessels enumerated by Admiral Polo, that he is constrained to disregard the hypothetical suggestion, and to declare that this Government is firmly convinced that no injury has been suffered by Spain for which reclamation can be demanded.

In the great tribunal which was convened at Geneva, the learned representatives of five powers, with the eyes of the whole civilized world turned upon them, declared that losses in the transfer of the commercial marine from the flag of a belligerent to that of a neutral, that enhanced payments of insurance, that the prolongation of a war, and that the addition of a large sum to the cost of a war and the suppression of a rebellion, do not constitute, on the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations. And the same tribunal, in another session, decided that a claim advanced by the United States for reimbursement of the sums expended by them in the pursuit of the rebel cruisers should be rejected, because such expenditure was comprised in the cost of the war.

The United States have in good faith accepted these principles thus enunciated by this great tribunal. If Spain is disposed to question them, the undersigned, while deeply and sincerely regretting it, must respectfully decline a discussion upon principles which this Government regards as *res adjudicata*.

For the first time it is brought to the official notice of the undersigned, by the official note of the envoy and minister of Spain of the 2d of February, that Manuel Quesada was sent to this Government in 1870 in the character of an envoy; and the representative of Spain has adopted and incorporated in his note a statement of Mr. Quesada, by which it appears that property, amounting to several hundred millions of dollars, belonging to Cubans, has been confiscated by the authorities of Spain. Such severe measures thus admitted by Spain would seem to furnish a partial explanation of the activity of the Cuban exiles; and would certainly seem to indicate that Spain has been no sufferer in this contest.

Admiral Polo closes his long and able note by what it may not be unjust to style a complaint at the asylum given in the United States to the refugees from the violence of the *Casino Español* and of the Havana volunteers.

This makes it proper that the undersigned should submit a few

remarks upon the general political relations of the United States to this unhappy controversy.

When the President entered upon the duties of his office in March, 1869, the Cuban insurrection was the first external question pressed upon his attention. The correspondence between Mr. Lopez Roberts and the undersigned, and the steps taken to maintain the international obligations of the United States toward Spain have already been noticed.

It was found that the rights of citizens of the United States were affected by the action of the authorities in the island in their efforts to suppress the insurrection, and Mr. Lopez Roberts was, on the request of this Government, authorized, in conjunction with the captain-general of Cuba, and without consulting the Spanish government, to settle questions arising with the Government of the United States or with its citizens, out of the occurrences taking place in that island, excepting cases of such gravity as might require consultation with the home government.

Under this arrangement various representations were from time to time made to Mr. Roberts, and some few questions were thus amicably adjusted.

During this time Mr. Roberts gave frequent assurances that the insurrection was being crushed, that it was at an end, that nothing remained in resistance to the government but a few individuals who were scattered and had taken refuge in the woods. He read to the undersigned telegrams or notes to this effect. Finally, in the spring or summer of 1870, the power given to Mr. Roberts was withdrawn by the government at Madrid, "in view," as the undersigned was officially informed, "of the favorable situation in which the island of Cuba then was."

Simultaneously with some of these proceedings political negotiations had taken place at Madrid. In compliance with suggestions which were understood to emanate from a high quarter in Spain, the President had indicated a willingness to proffer the good offices of the United States to secure a peaceful termination of the insurrection. The advances of the President were well received at Madrid; and although no practicable basis for continuing the negotiation was found, the representative of the United States was repeatedly assured that substantial reforms were to be granted to Cuba, and that provision was to be made for putting a speedy end to slavery.

By the slaveholders' revolution of June, 1869, in Havana, General Dulce, whose "generous moderation" is feelingly and appreciatingly referred to by Admiral Polo, was driven out of the island, and the substance of political power passed into the hands of the Casino Español, where it has since remained. But, in spite of this, the government at Madrid continued its assurances respecting liberal reforms and the freedom of the slaves.

While the President was exercising the extreme powers of the Government, as already described, to counteract the incessant efforts of Spanish subjects who had taken refuge in this country, and, availing themselves of this large extent of the latitude of liberty and freedom of conscience which its laws and its policy allow to the citizen and to the stranger, were endeavoring to involve this country in embarrassments with Spain, cases of injuries to American citizens and their properties were arising which could not be adjusted by the undersigned and the minister of Spain. It was, therefore, a relief to be assured by Mr. Lopez Roberts that the insurrection was waning and was practically at an

end, and to have that assurance confirmed by the official announcement that the Spanish government regarded the situation in Cuba as so favorable as to justify it in withdrawing the power which it had given to its minister in this country and to the captain-general in Cuba to adjust the questions which might arise with regard to interests of citizens of the United States affected by occurrences in Cuba.

The unadjusted cases were therefore referred to Madrid for adjustment, and there, after a long delay, in marked contrast to the prompt action of this Government when the interests of Spain were affected, an agreement was entered into for their reference to the tribunal at Washington, already referred to.

The announcement of the practical close of the insurrection and of the withdrawal by Spain, on the ground of the favorable situation of the island, of the only concession made by her toward the reparation of the rights, or the prevention of acts injuriously affecting the interests of American citizens, was well calculated to lead to a relaxation of the severe tension to which the vigilance of this Government had for several months been subjected, and might well be pleaded in justification in case of any omission of vigilance.

The President on the 12th of October, 1870, issued his proclamation, in which, after reciting that there was reason to apprehend that evil-disposed persons had set on foot military expeditions, and fitted out vessels to act against powers with whom the United States were at peace, he continued:

Now, therefore, I, Ulysses S. Grant, President of the United States of America, do hereby declare and proclaim that all persons hereafter found within the territory or jurisdiction of the United States, committing any of the afore-recited violations of law, or any similar violations of the sovereignty of the United States for which punishment is provided by law, will be rigorously prosecuted therefor, and, upon conviction and sentence to punishment, will not be entitled to expect or receive the clemency of the Executive to save them from the consequences of their guilt; and I enjoin upon every officer of this Government, civil, or military, or naval, to use all efforts in his power to arrest, for trial and punishment, every such offender against the laws providing for the performance of our sacred obligations to friendly powers.

On the 17th day of the following December, the esteemed predecessor of Admiral Polo, Mr. Lopez Roberts, addressed to the undersigned the two notes which have been frequently referred to in this paper. He made several statements respecting the "Hornet," the "Perrit," the "Upton," the "Catharine Whiting," which are substantially repeated in Admiral Polo's note. He said nothing of the "Lowell," the "Salvador," the "Grapeshot," the "Lillian," or the "Virginus." He complained of the clemency of the United States in releasing the "Hornet" at Wilmington, and in not prosecuting several persons, whose names he gave as having been concerned in the affair of the "Hornet," or of the "Catharine Whiting," or of the "Upton." He also complained that no proceedings were pressed against the "Catharine Whiting," the "H. McCool," and the "Jonathan Chase."

Admiral Polo now renews many of these complaints, and the undersigned can, in response, only renew the answer given to Admiral Polo's predecessor, that the withdrawal of the power from Mr. Lopez Roberts to settle by agreement, in connection with the captain-general of Cuba, without consulting the Spanish government, questions arising with this Government or its citizens, and the repeated assurances of Mr. Lopez Roberts, that the insurrection was virtually suppressed, induced this Government to believe that the time had come for the exercise of clemency.

The undersigned then continued thus in his reply to Mr. Lopez Roberts:

The President did not and would not suppose that the government of Spain would lessen the means of protection to the persons and properties of citizens of the United States in Cuba, which it had extended during the insurrection at the request of this Government, unless it was convinced that the insurrection, which made it necessary, had virtually ceased. He could not and would not assume that a government which had maintained such friendly relations with this Government would voluntarily do so unfriendly an act as to withdraw, without notice, the powers conferred upon Mr. Lopez Roberts at its request, unless it was convinced that the necessity for them had ceased in consequence of the suppression of the insurrection. He was pleased to believe that, in the opinion of the Spanish government, the danger from the insurrection was over; that the time for milder measures had come, and that the blessings of peace were to follow. It did not appear to him that the restraints upon the commerce of the United States and upon the free movements of their citizens—measures which had been taken because the maintenance of the obligations of the United States as one of the family of nations appeared to require them—should be longer imposed. It did not seem to this Government that good could come from continuing preventive, much less punitive, proceedings against individuals or vessels, when the cause which prompted the alleged illegal acts was supposed to have disappeared. It was believed to be in harmony with the humane policy which has characterized this Government, that a suspension of the rigid prosecution of offenses (partaking of a political character) growing out of a sympathy with a political struggle in a neighboring island, might well take place. It was hoped that the benevolent example of the United States, in this respect, might, perhaps, be reflected in the policy of Spain toward Cuba. It was believed that the reforms which had been so often promised to the representative of the United States at Madrid were about to be granted; that the blot of slavery would disappear; that the right of colonial self-government would be given to the island; that the burdensome system of taxation would be abolished, and that, peace being restored, all the desired reforms being granted, and amnesty and pardon being given, the Government of the United States would be relieved from the disagreeable duties which it had performed for about two years.

Mr. Lopez Roberts will find in these considerations an evidence of the generous purposes and desires of the Government of the United States toward his government and toward the island of Cuba, and its logical action in reliance upon the promises and the representations of the Spanish government, and of its esteemed representative to this Government. He will permit the undersigned also to say (in reply to his suggestion that these persons have been stimulated and encouraged by the indulgence hitherto shown them by a benevolent government) that it seems to the undersigned that they have found their encouragement and their stimulus, not in the humane course of this Government, but in that love of liberty and in that sympathy with communities struggling against oppression and for freedom, which is the portion of all generous natures; and that such stimulus and encouragement will fail them when Spain shall imitate the benign policy of the United States.

For five years the policy of repression, of confiscation, of summary execution of political prisoners, of refusal of reforms, of denial of self-government, of maintenance of slavery, in short, the policy of violence and force, has held sway in Cuba. It is understood that the insurrection calls to-day for as many troops to keep it in restraint as were necessary in 1869.

During these five years this Government has watched events in Cuba, perhaps not always patiently, but certainly always impartially. It has seen vessels sailing under its flag intercepted on the high seas and carried into Spanish ports. It has seen the property of its citizens embargoed and their revenues sequestered, and when it has complained it has been met by promises of restoration; but the official assurances of Spain in that respect have in most cases not been complied with. It has seen its citizens condemned to death under the form of military law, and executed in violation of the treaty obligations of Spain. It has seen other citizens of the United States mobbed in the streets of Havana for no other reason than that they were citizens of the United States, or the accidental circumstance of the color of the dress. It has stretched its powers and interfered with the liberties of its citizens in order to fulfill all its duties as a sovereign nation toward the power which in Cuba was tolerating the evil influences of reaction, and of slavery, and of "the deplorable and pertinacious tradition of despotism" referred to by the minister of transmarine affairs, all of which made the things complained of possible.

It has refrained from the assertion of its rights, under the hope, derived from the constant assurances of the government of Spain, that liberty and self-government would be accorded to Cuba, that African slavery would be driven out from its last resting-place in Christendom, and that the instruments of the Casino Español would be restrained in their violence, and made to obey law, and to respect the treaty obligations of Spain.

But while so doing, it expected and still confidently expects, the time not to be far distant, when Spain will make reparation for the wrongs which have thus been inflicted upon their citizens.

The undersigned has seen with much satisfaction in the several efforts of the cabinet of Madrid, in opposition to the wishes and policy of the slaveholders of Cuba, proof of a desire of the Spanish government to correct the abuses of which this Government complains. Later signs, however, give cause to fear that the hand which holds human beings in bondage still is powerful.

The undersigned, in conclusion, renews the expression of the expectation of this Government that the oft-repeated assurances of the cabinet of Madrid with respect to Cuba may be carried into effect.

The undersigned avails himself of this occasion to renew to Admiral Polo the assurances of his most distinguished consideration.

HAMILTON FISH.

His Excellency Señor Don JOSÉ POLO DE BERNABÉ,

&c., &c., &c.

No. 557.

Mr. Young to Mr. Fish.

No. 109 bis.]

UNITED STATES CONSULATE,

Santiago de Cuba, Dec. 18, 1873. (Received December 30.)

SIR: I have the honor to transmit herewith a complete list of the persons taken from on board the United States merchant-steamer *Virginus*. I was present on board of the United States steamer *Juniata*, at the solicitation of Commander D. S. Braine, when the remaining prisoners were delivered on board this morning. Those checked are the persons delivered, and those not checked are the names of those shot. I improve this opportunity to send this direct, as the *Juniata* leaves for New York at 5 p. m. to-day.

A. N. YOUNG.

[Inclosure in No. 109.]

List of 155 people captured on board the American steamer Virginus by the Spanish steamer Tornado, brought to the port of Santiago de Cuba, and turned over to the authorities.

| Name. | Where from. | Married or single. | Age. | Occupation. |
|------------------------------------|-----------------------|--------------------|------|--------------------------|
| 1. Joseph Fry | United States | Married | 47 | Captain merchant-vessel. |
| 2. William Baynard | do | Single | 37 | Master merchant-vessel. |
| 3. James Floody | England | Married | 25 | Do. |
| 4. J. C. Harris | United States | do | 45 | Miner. |
| 5. John N. Boza | Puerto Principe | do | 37 | Farmer. |
| 6. B. P. Chamberlain | New York | Single | 27 | Engineer. |
| 7. Francisco Sotero Trujillo | Bayamo | do | 37 | Do. |

List of 155 people captured on board the American steamer *Virginus*, &c.—Continued

| Name. | Where from. | Married or single. | Age. | Occupation. |
|---|---|--------------------|------|---|
| 8. Edward Day..... | New York..... | Married..... | 32 | Engineer. |
| 9. Porfirio Corbison..... | Santiago de Cuba..... | Single..... | 26 | Commerce. |
| 10. John Williamson..... | United States..... | do..... | 35 | Oiler. |
| 11. Peter Alfaro..... | Havana..... | do..... | 26 | Purser's clerk. |
| 12. Thomas Grigg..... | Barbadoes..... | do..... | 30 | Mariner. |
| 13. Frank Good..... | Jamaica..... | Married..... | 37 | Do. |
| 14. Paul Rbuner..... | Ireland..... | Single..... | 40 | Fireman. |
| 15. Barney Herralls..... | England..... | do..... | 28 | Do. |
| 16. James Samuel..... | do..... | do..... | 20 | Mariner. |
| 17. Hervey Frank..... | Barbadoes..... | do..... | 21 | Coal-heaver. |
| 18. James Read..... | Africa..... | do..... | 40 | Fireman. |
| 19. Samuel Card..... | Nassau..... | Married..... | 24 | Mariner. |
| 20. John Brown..... | United States..... | Single..... | 22 | Do. |
| 21. Alfred Hosel..... | England..... | do..... | 22 | Do. |
| 22. Wallis Fied Price..... | do..... | do..... | 20 | Do. |
| 23. George Thomas..... | Jamaica..... | do..... | 22 | Do. |
| 24. Thomas M. Williams..... | England..... | Married..... | 26 | Fireman. |
| 25. Ezequiel Dunham..... | Canary Islands..... | Single..... | 27 | Mariner. |
| 26. Simon Brown..... | Nassau..... | do..... | 29 | Waiter. |
| 27. Leopold Thomas La Rose..... | United States..... | do..... | 18 | Cabin-boy. |
| 28. Alonzo Arcey..... | Trinidad..... | Married..... | 38 | Farmer. |
| 29. William Rose..... | Scotland..... | Single..... | 23 | Mariner. |
| 30. John Stewart..... | Sta. Martha, Vene- zuela..... | do..... | 29 | Do. |
| 31. Henry M. Bond..... | England..... | Married..... | 45 | Do. |
| 32. George Thompson..... | do..... | do..... | 36 | Do. |
| 33. Ignacio Dueñas..... | Barranquilla, Colo. Bolivia..... | Single..... | 27 | Cook. |
| 34. Antonio Deloyo..... | Bolivia..... | Widower..... | 30 | Mariner. |
| 35. Jos. Man. Ferran..... | Jamaica..... | Single..... | 22 | Cook. |
| 36. Ramon Larramendi..... | Bayamo..... | do..... | 27 | Farmer. |
| 37. Eusebio Gariza..... | Barranquilla, Colo. Puerto Principe..... | do..... | 22 | Do. |
| 38. Bernabé Varona..... | Puerto Principe..... | do..... | 27 | Proprietor. |
| 39. Pedro Cespedes..... | Bayamo..... | Married..... | 47 | No occupation. |
| 40. Arthur Molay..... | Puerto Principe..... | Single..... | 19 | Agricultur. |
| 41. Francisco de Powas..... | Havana..... | do..... | 19 | Cabinet-maker. |
| 42. Luis Sanchez, (his real name, Herminio Quesada.)..... | Puerto Principe..... | do..... | 18 | Student. |
| 43. Joseph Boitel..... | Cardenas..... | do..... | 26 | Agricultur. |
| 44. Augustin Varona..... | Puerto Principe..... | do..... | 28 | No occupation. |
| 45. Salvador Penedo..... | Nuevitas..... | do..... | 23 | Merchant. |
| 46. Henry Castellano..... | Giñes..... | do..... | 29 | App. machinist. |
| 47. Jesus del Sol..... | Cienfuegos..... | do..... | 38 | Farmer. |
| 48. José Otero..... | Havana..... | do..... | 27 | Cigar-maker. |
| 49. Francisco Rivera, (his real name, Augustin Sta Rosa.)..... | do..... | do..... | 40 | Do. |
| 50. Oscar Varona..... | Puerto Principe..... | do..... | 19 | Student. |
| 51. Justo Consuegra..... | Sta. Clara, Cuba..... | do..... | 25 | Mechanic. |
| 52. William Valls..... | Puerto Principe..... | do..... | 25 | Commerce. |
| 53. W. A. C. Ryan..... | Canada..... | do..... | 28 | Lawyer. |
| 54. Charles Knight..... | England..... | Married..... | 21 | Engineer. |
| 55. Henry King..... | United States..... | Single..... | 27 | Do. |
| 56. William Wilson..... | Canada..... | do..... | 24 | Mariner. |
| 57. Thomas Lindgly..... | Jamaica..... | do..... | 18 | Do. |
| 58. Charles Debrosse..... | do..... | do..... | 18 | Printer. |
| 59. William Danton..... | do..... | do..... | 17 | Tailor. |
| 60. John Pothremouth..... | do..... | do..... | 17 | Tinsmith. |
| 61. Edward Scott..... | Jamaica, U S..... | do..... | 16 | Do. |
| 62. John Freemont..... | Curaçoa..... | Married..... | 16 | Mariner. |
| 63. Nicolas Cardozo..... | Colombia..... | Single..... | 14 | Waiter. |
| 64. José del Espiritu Santo..... | Jamaica..... | do..... | 16 | Cook. |
| 65. Alfred Parker..... | United States..... | Married..... | 31 | Mariner. |
| 66. Henry Knight..... | New York..... | Single..... | 16 | No profession. |
| 67. Philip Marty..... | Curaçoa..... | do..... | 20 | Engineer. |
| 68. Antonio Constantine..... | do..... | do..... | 14 | On board Spanish gunboat Cuba Española. |
| 69. Joseph Diaz..... | San Juan de los Baños..... | Married..... | 29 | Farmer. |
| 70. Juan Herrero..... | Havana..... | Single..... | 34 | Cigar-maker. |
| 71. Alfred Lopez..... | Santiago de las Vegas..... | do..... | 19 | Do. |
| 72. José Igno. Lamas..... | Matanzas..... | do..... | 23 | Engineer. |
| 73. Andrew Acosta..... | Giñes..... | do..... | 24 | Mechanic. |
| 74. Francisco Castello..... | Regla..... | do..... | 21 | Student. |
| 75. Benjamin Olazaga..... | Puerto Principe..... | do..... | 17 | Engineer. |
| 76. José Madeo..... | Havana..... | do..... | 24 | Cigar-maker. |
| 77. Ramon Pardos..... | Jamaica..... | do..... | 32 | Cook. |
| 78. Francisco Gonzales..... | Havana..... | do..... | 33 | Student. |
| 79. Joseph Pelaez..... | Malaga..... | do..... | 15 | Do. |
| 80. Leonardo Alvarez..... | Santiago de Cuba..... | do..... | 16 | Silversmith. |
| 81. Julio Arango..... | Puerto Principe..... | do..... | 16 | No profession. |
| 82. Jose Hernandez..... | Havana..... | do..... | 20 | Merchant. |
| 83. Nicolas Ramirez..... | Puerto Principe..... | do..... | 23 | Farmer. |

List of 155 people captured on board the American steamer *Virginus*, &c.—Continued.

| Name. | Where from. | Married or single. | Age. | Occupation. |
|----------------------------------|------------------------------|--------------------|------|--------------------|
| 84. Igno, Quintin Beltram | Andalgo | Single | 35 | Clerk. |
| 85. Perfecto Bello | Havana | Married | 24 | Actor. |
| 86. Benoit Globes | France | Single | 34 | Cook. |
| 87. Nicolas Ruiz | Matanzas | do | 26 | Cigar-maker. |
| 88. Juan Alvarado | Havana | do | 34 | Do. |
| 89. Andrew Villa | do | do | 24 | Do. |
| 90. Ricardo Trujillo | Cienfuegos | do | 20 | Student. |
| 91. Ramon Calvo | Havana | do | 40 | No profession. |
| 92. Silverio Sales | Colon | do | 26 | Mason. |
| 93. Rafael Pacheco | Havana | do | 39 | Cigar-maker. |
| 94. Alexander Calvo | do | do | 39 | Commercé. |
| 95. Canuto Guerra | Melena, Cuba | do | 22 | Cigar-maker. |
| 96. Canuto Sanz | Havana | do | 25 | Mason. |
| 97. Leon Bernal | Puerto Principe | do | 25 | Agriculturor. |
| 98. Emilio Garcia | Cardenas | do | 20 | Carpenter. |
| 99. Gil Montes | Giünes | do | 23 | Cigar-maker. |
| 100. Rafael Cabrera | Havana | do | 20 | No profession. |
| 101. Amador Rosillo | Bayamo | do | 18 | Farmer. |
| 102. Igno, or Francisco W. Tapia | Havana | do | 24 | Commercé. |
| 103. Manuel Silveria | Bayamo | do | 18 | Do. |
| 104. Santiago Rivera | St. Thomas | do | 17 | Trimmings. |
| 105. Antonio Gomez | Havana | do | 39 | Cigar-maker. |
| 106. Andrew Echevarria | Holquin | Married | 24 | Agriculturor. |
| 107. José Marin | Havana | Single | 24 | Carpenter. |
| 108. Luis Martinez | Cuba | do | 13 | Baker. |
| 109. Domingo Salazar | Havana | Widower | 27 | Cigar-maker. |
| 110. Pedro Pajarín | Cardenas | Single | 26 | Do. |
| 111. Manuel Padron | Havana | do | 17 | Do. |
| 112. Alexander Cruz Estrado | Cana-y Islands. | do | 20 | Blacksmith. |
| 113. Juan Soto | Havana | Married | 28 | Mechanic. |
| 114. Felix Fernandez | do | Single | 29 | Commercé. |
| 115. Manuel Perez | do | Widower | 29 | Cigar-maker. |
| 116. José Anto. Ramos | do | Single | 18 | Do. |
| 117. Ramon Barrero | do | do | 19 | Do. |
| 118. Ignacio Valdez | do | do | 23 | Commercé. |
| 119. Luis Felix Morejon | Matanzas | do | 16 | Silversmith. |
| 120. José Santiesteban | Cobre | do | 30 | Carpenter. |
| 121. Francisco Pacheco | Porto Rico | do | 15 | Tinsmith. |
| 122. Evaristo Sunsunegui | Havana | do | 17 | Student. |
| 123. Ramon Gonzalez | Matanzas | do | 18 | Commercé. |
| 124. Antonio Chacon | Havana | do | 30 | Cigar-maker. |
| 125. Sireno Otero | Colon | do | 17 | Student. |
| 126. Carlos Pacheco | Havana | Married | 34 | Cigar-maker. |
| 127. Antonio Padilla | Puerto Principe | Single | 27 | Machinist. |
| 128. Henry Canals | Pinal del Rio, Isle de Pino. | do | 22 | Commercé. |
| 129. Indalecio Trujillo | Giünes | do | 21 | Farmer. |
| 130. Domingo Diaz | Trinidad | do | 23 | Student. |
| 131. Pedro Sariol | Havana | do | 21 | Cigar-maker |
| 132. Pedro Saez | do | Widower | 23 | Student. |
| 133. Miguel Sayers | Santiago de Cuba | Single | 18 | Farmer. |
| 134. Severo Mendive | Regla, Cuba. | do | 20 | Student. |
| 135. Patricio Martinez | Havana | do | 18 | No profession. |
| 136. Henry Alaya | do | do | 29 | Commercé. |
| 137. Manuel Saumell | Manzanillo. | do | 13 | No profession. |
| 138. Domingo Rodrigues | Havana | do | 30 | Cigar-maker. |
| 139. Luis Rebollo | Trinidad | do | 19 | Commercé. |
| 140. Antonio Rivera | Porto Rico | do | 20 | Machinist. |
| 141. Carlos Marin | Havana | do | 24 | Student. |
| 142. Ramon R. de Armas | Puerto Principe. | do | 25 | Commercé. |
| 143. Manuel Menesses. | Philadelphia | do | 28 | Surgeon-dentist. |
| 144. Phillip Meitzler | Charleston | do | 21 | Cigar-maker. |
| 145. William Curtis | Jamaica | do | 22 | Tinsmith. |
| 146. Samuel Hale | do | do | 15 | No occupation. |
| 147. Samuel Gray | Harrisburgh | do | 21 | Carpenter. |
| 148. Sidney Robertson | Jamaica | do | 20 | Saddler. |
| 149. George Winters | do | do | 17 | Shoemaker. |
| 150. William Marshall | do | do | 13 | Apprentice. |
| 151. Even Pinto | do | do | 15 | Cigar-maker. |
| 152. George Burke | do | do | 13 | Apprent'e painter. |
| 153. Carlos Gonzalez | Matanzas | do | 22 | Cigar-maker. |
| 154. Leopold Rizo | Havana | do | 25 | Lawyer. |
| 155. José Rudesindo | Barranquilla, Colo | do | 25 | Cook. |

The one hundred and two names checked were delivered on board the United States steamer *Juniata*, Commander D. S. Braine commanding, this 18th December, 1873, in my presence.

A. N. YOUNG,

Consul of United States of America at Santiago de Cuba.

[The names checked in the MS. are those which are numbered from 54 to 155, inclusive, in the above list.]

No. 558.

Mr. Fish to Mr. Cushing.

No. 4.]

DEPARTMENT OF STATE,
Washington, February 10, 1874.

SIR: You will receive herewith a copy of various instructions, dispatches, notes, &c., in regard to the steamer *Virginius*. You are familiar with the general history of that vessel, and you have received in personal interviews and intercourse the general ideas and views of the Government with respect thereto, all which you will find set forth in the papers herewith. I shall not, therefore, review them here.

The protocol of conference between myself and the Spanish minister on the 29th of November last, which disposed provisionally of the question of the steamer *Virginius*, was based on previous discussions, the substance of which you will find in certain memoranda among the accompanying papers, especially those of November 21, November 25, and November 27, by which it appears that this Government in its own interest, as well as in the interest of all maritime powers, denies the right of any other power to capture or molest on the high seas in time of peace any regularly documented vessel, bearing, as such, the flag of the United States, and reserves to itself the right to inquire whether, by reason of any act of such vessel, she should have ceased to be entitled to the protection of the United States.

It was in obedience to this doctrine of public law that Spain, by the protocol above mentioned, agreed to restore the *Virginius* and the survivors of her passengers and crew forthwith, leaving it open to Spain to prove to the satisfaction of this Government, if she could, that the *Virginius* was not entitled to carry the flag of the United States.

This admission of the illegality of the capture of the ship involved, of necessity, not only admission of the illegality of the capture of her crew and her passengers, but admission also of the wrongfulness of the summary execution of fifty-three of her crew or passengers at Santiago de Cuba.

The wrongfulness of the general act of the local authorities of Cuba in this respect was not confined to such of the passengers and crew as were citizens of the United States; it applied to all other persons, of whatever nationality, captured on board the *Virginius*.

As to such of the persons as were citizens of the United States additional wrong was committed, that of subjecting them to imprisonment without communication, and that of trying and condemning them in violation, as to manner and form, of the stipulations of treaty between the United States and Spain. The views of the Government in this respect are explicitly set forth in various of the documents annexed to your instructions.

Although no special reference to this question appears in the protocol of the 29th of November, still it was not lost sight of at the time, and is among the questions contemplated by the stipulation of the protocol in the words, "other reciprocal reclamations to be the subject of consideration and arrangement between the two governments."

Spain has already availed herself of the right thus reserved by presenting a reclamation for indemnity, on account of alleged injuries done to her by the *Virginius*. You will find a copy of notes of Admiral Polo (the Spanish minister at this capital) on this subject, of the dates of December 30, 1873, and February 2, 1874, and a reply of this Department to the former, among the papers accompanying this instruction. The latter of the minister's notes has not yet been answered.

You are now instructed to make reclamation on the Spanish government for injuries to the crew and passengers of the *Virginus*, by reason of their capture and imprisonment; and more especially to call for indemnity to the families of such of the crew and passengers as were executed at Santiago de Cuba. In doing this, it will not be necessary at the outset to open a discussion in detail of the various particular questions involved in the general question, such as the right of the United States to claim redress for injury done to subjects of Spain, whether innocent or charged with complicity in the insurrection, or with other offenses, or to subjects of Great Britain or other powers, or only for injury done to citizens of the United States. All these particular questions, as also that of the amount or form of reparation, may be left by you for consideration until after response shall have been made by the Spanish government to the general demand for reparation in the premises. It will be in season then to judge how far the United States will go in a claim of indemnity of this nature as to persons, and in reference to a vessel of the character of the *Virginus*.

It will be proper for you to note that, according to the stipulations of the protocol, this reclamation is one of the possible differences between the two governments, which may be made the subject of arbitration.

I am, &c.,

HAMILTON FISH.

No. 559.

Mr. Fish to Mr. Cushing.

No. 18.]

DEPARTMENT OF STATE,
Washington, April 24, 1874.

SIR: Inclosed is transmitted for your information a copy of further correspondence between this Department and the minister of Spain at Washington respecting the *Virginus*, and the course of the United States towards the insurrection in Cuba. You will please regard these inclosures for the present as confidential.

I am, &c.,

HAMILTON FISH.

Inclosures.

1. Admiral Polo to Mr. Fish, December 30, 1873.
 2. Mr. Fish to Admiral Polo, January 9, 1874.
 3. Admiral Polo to Mr. Fish, February 2, 1874.
 4. Mr. Fish to Admiral Polo, April 18, 1874.
- (For above inclosures, see Nos. 16, 17, 18, and 19.)

No. 560.

Mr. Cushing to Mr. Fish.

No. 7.]

PARIS, April 11, 1874. (Received May 1.)

SIR: I have received a dispatch of the Department, touching a class of questions which render me exceedingly impatient to reach Madrid and have access in some form to the Spanish government.

I am preparing to leave Paris speedily, proceeding probably by way of Lisbon.

I have the honor, &c.,

C. CUSHING.

No. 561.

Mr. Cushing to Mr. Fish.

No. 9.] BORDEAUX, April 20, 1874. (Received May 7.)

SIR: My dispatch, No. 6, of the 10th instant, will have informed you of my conviction of the inexpediency of hastening to present myself to President Serrano, especially so long as he remains in his present position in the lines of Somorrostro.

* * * * *

I have come here for the purpose of taking passage this week for Lisbon in the regular packet of the English Pacific Steam Navigation Company, which affords me the only present convenient means of reaching Madrid.

I have the honor, &c.,

C. CUSHING.

No. 562.

*Mr. Cushing to Mr. Fish.*No. 21.] LEGATION OF THE UNITED STATES,
Madrid, June 1, 1874. (Received June 22.)

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

I am, &c.,

C. CUSHING.

No. 563.

*Mr. Cushing to Mr. Fish.*No. 41.] UNITED STATES LEGATION,
Madrid, June 26, 1874. (Received July 17.)

SIR: I have the honor to inclose herewith copy of communication addressed to the minister of state of Spain, presenting reclamation in behalf of the crew and passengers of the *Virginus*.

I am, &c.,

C. CUSHING.

[Inclosure in No. 41.]

*Mr. Cushing to Mr. Uloa.*LEGATION OF THE UNITED STATES,
Madrid, June 26, 1874.

SIR: I have been directed by the President of the United States to address your excellency, calling for reparation on behalf of the crew and passengers of the *Virginus*.

The protocol of conference between the Secretary of State of the United States and the Spanish minister at Washington, on the 29th of November last, which disposed provisionally of the question of the *Virginus*, was based on previous discussions of

the 21st, 25th, and 27th of November, communicated of course by the Spanish minister to his government. By the tenor of these conferences, it appears that the United States, in their own interest, as well as in the interest of all maritime powers, deny the right of any other power to capture or molest on the high seas, in time of peace, any regularly documented vessel bearing as such their flag, and reserve to themselves the right to inquire whether, by reason of any act of such vessel, she shall have ceased to be entitled to the protection of the United States.

It was in obedience to this doctrine of public law that Spain, by the protocol above mentioned, agreed to restore the *Virginus* and the survivors of her passengers and crew forthwith, leaving it open to Spain to prove to the satisfaction of the Government of the United States, if she could, that the *Virginus* was not entitled to carry the flag of the United States.

This admission of the illegality of the capture of the ship involved, of necessity, not only admission of the illegality of the capture of her crew and her passengers, but admission also of the wrongfulness of the summary execution of fifty-three of her crew or passengers at Santiago de Cuba.

The wrongfulness of the general act of the local authorities of Cuba in this respect was not confined to such of the passengers and crew as were citizens of the United States; it applied to all other persons, of whatever nationality, captured on board the *Virginus*.

As to such of the persons as were citizens of the United States, additional wrong was committed, that of subjecting them to imprisonment without communication, and that of trying and condemning them in violation, as to manner and form, of the stipulations of treaty between the United States and Spain.

The views of the Government of the United States in this respect have been explicitly set forth heretofore in communications to the government of Spain.

Although no special reference to this question appears in the protocol of the 29th of November, still it was not lost sight of at the time, and is among the questions contemplated by the stipulation of the protocol, in these words: "Other reciprocal reclamations to be the subject of consideration and arrangement between the two governments."

Spain has already availed herself of the right thus reserved by presenting reclamation for indemnity on account of alleged injuries done to her by the *Virginus*.

It now becomes my duty, in obedience to my instructions, and for the considerations thus adduced, to present to the government of Spain reclamation in behalf of the United States for injuries suffered by the surviving crew and passengers of the *Virginus* by reason of their capture and imprisonment, and indemnity for the families of such of the crew and passengers as were executed at Santiago de Cuba, and earnestly to press the same on the early attention of the government of Spain.

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

C. CUSHING.

No. 564.

Mr. Cushing to Mr. Fish.

No. 49.]

UNITED STATES LEGATION,
Madrid, July 3, 1874. (Received July 23.)

SIR: I entertain confident belief that, with steady but patient persistence of reclamation, we shall in good time reach a satisfactory solution of most, if not all, of the unsettled questions growing out of the capture of the *Virginus*.

* * * * *

It may become expedient ere long to communicate personally with the minister of state on the whole subject, with doubt only whether or not it is best to wait for written responses from the minister of state, such as to require argumentative written reply on my part, or in anticipation thereof to provoke or invite oral discussion.

* * * * *

Meanwhile, if you have had occasion to reflect upon the reserved questions comprehended in the general reclamation, it will greatly relieve me to receive directions from you to guide me in this behalf, more

especially as those questions are somewhat new, and the presentation of them may imply commitment of the United States in respect of principles of reciprocal public right.

I have, &c.,

C. CUSHING.

No. 565.

Mr. Cushing to Mr. Fish.

No. 59.]

UNITED STATES LEGATION,
Madrid, July 10, 1874. (Received Aug. 4.)

SIR: I inclose herewith a communication from the minister of state, in answer to my note demanding indemnity for the officers, crew, and passengers of the *Virginus*.

You will perceive that the main contention of Mr. Ulloa turns on the pretended necessity or propriety of discussing, as one question, the claims preferred by Spain and those preferred by the United States.

Mr. Ulloa proceeds, on these premises, to maintain that because the claims of Spain were presented before those of the United States, therefore the first should be settled before the second. Such a thesis would be untenable in litigation between private persons. * * *

Besides which, the claim of Spain has been exhaustively discussed in the dispatches interchanged between yourself and Admiral Polo de Bernabé, and it would be quite vain for Mr. Ulloa to think of making any profitable answer to your last note to Admiral Polo.

The entire theory of Mr. Ulloa's communication is manifestly untenable, because the claims of Spain involve questions entirely distinct from, and independent of, those of the United States.

* * * * *

I propose, therefore, as in conformity with my instructions, to prepare, as soon as possible, and present, a full and complete reply to this communication of the minister of state.

I remain, &c.,

C. CUSHING.

[Inclosure in No. 59.—Translation.]

Mr. Ulloa to Mr. Cushing.

MINISTRY OF STATE, *Madrid, July 7, 1874.*

SIR: I have received your note of 26th ultimo, in which, being charged therewith by the President of the Republic of the United States, you are pleased to demand reparation with respect to the crew and passengers of the steamer *Virginus*.

Your note being principally based on the reservation stipulated in the protocol of the conference celebrated on the 29th of November last, between the representative of Spain in Washington and the Secretary of State, with respect to "other reciprocal reclamations" which were "the subject of consideration and arrangement between the two governments," there is no room for doubt as to the regularity (*procedencia*) of your action, as well because its postponement was authorized and agreed to in the aforesaid protocol, as because in the conferences nothing was directly said about it.

Pursuing in his turn a like path of right, Rear-Admiral Polo, in representation of Spain, demanded in due time proper reparation for the injuries caused in consequence of the expedition of the *Virginus* to the coasts of Cuba; and although he did in fact receive a polite answer from the Secretary of State, wherein the latter endeavored to refute the arguments set forth by our plenipotentiary in support of his reclamation,

he has not yet received any to the argumentative and extensive reply which he addressed to him on the 2d of February of the present year.

In recalling this circumstance, I have no other object than to call your attention to the importance of this matter and the difficulties in the way of clearing it up, which are at once revealed in the prolonged controversy still pending between our representative in Washington and the illustrious Secretary of State, Mr. Hamilton Fish.

Recognizing now, and repeating, as I ought to, the perfect right of the Government of the United States to select and fix the moment for reclaiming the reparation to which your note alludes, you will permit me, nevertheless, to observe that Spain having already presented, for her part, claim for the reparation which she deems herself entitled to obtain from the Government of Washington, this simultaneousness of proceedings in which one and the same government appears as claimant and respondent at the same time and in the same matter, is not in conformity to sound juridical principles, nor can be in any way dependent upon them. The bringing of the facts to light, due unity in the modes of proof, and, in fine, the examination of whatever may be alleged either for or against—these cannot but suffer considerably from the interruption of unity of connection* in the discussion, without receiving in exchange any positive advantage.

It seems, therefore, preferable in the present case that, before one of the governments deduces its right to be indemnified by the other, there should be previous ventilation of the fundamental question, from whence alone that right can spring.

So, therefore, the Spanish government would see with satisfaction, in deference to the respective interests of both governments, and in the interest of the justice which may be on the side of each of them in these reclamations—

First. That, before all, it be made clear through the diplomatic channel which of the two governments has been prejudiced by the acts of the *Virginus*, and the degree of responsibility which pertains to the other for the injuries caused by the conduct of its subjects.

Second. That after the question shall have been sufficiently discussed between the two governments or their diplomatic representatives, each of them may consult, should it so deem proper, such administrative or judicial bodies as it may consider expedient for the most complete enlightenment of the matter.

Third. That preliminary examination of the question having been already initiated before the Government of Washington, by the minister plenipotentiary of Spain, the termination of the same be awaited before the United States formulate their reclamation against the Spanish government; it being understood that the preference conceded to Spain is to be considered as the result of a fortuitous act, springing solely from the priority of the date when Rear-Admiral Polo presented his reclamation in the name of Spain.

As you will observe, this is the only possible means of bringing matters about so that the final determination reached in this grave affair may be the result of the rectitude and good judgment with which we all desire to proceed.

As for the rest, it is incumbent on me to give you the assurance that the question being once made clear, and the responsibility which may fall upon it for the events of the *Virginus*, the Spanish government will employ the same diligence as it is obliged, meanwhile, to consecrate to the defense of its national interests, in fulfilling and satisfying whatever may be exacted of it by the responsibility which shall appear to have been contracted by it or by its delegates in the island of Cuba.

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

AUGUSTO ULLOA.

No. 566.

Mr. Cushing to Mr. Fish.

No. 64.]

UNITED STATES LEGATION,
Madrid, July 22, 1874. (Received August 18.)

SIR: I inclose herewith copy of note to the minister of state on the subject of the officers, crew, and passengers of the *Virginus*.

I have, &c.,

C. CUSHING.

* *Continencia*, a Spanish legal term, to express continued and connected unity in the conduct of a case, wherein judge, parties, and advocates are the same to the end.

[Inclosure in No. 64.]

*Mr. Cushing to Mr. Ulloa.*LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, July 21, 1874.

SIR: I have the honor to acknowledge reception of your excellency's note of the 7th instant, in reference to the reparation claimed by the United States in behalf of the crew and passengers of the steamer *Virginus*; and, after according to the matter such due reflection as its importance requires and as respect for your excellency dictates, I beg leave herewith to present the view of the general question entertained by my Government.

Your excellency, adducing the fact that the Spanish government, through its minister at Washington, Admiral Polo de Bernabé, had presented reclamations against the United States on account of the acts of the *Virginus*, and assuming that the discussion initiated at Washington is still pending, founds upon these premises three suggestions, namely:

1. That, in the first instance, there should be elucidation by diplomatic means as to which of the two governments had been prejudiced by the acts of the *Virginus*, and the degree of responsibility which belongs to the other in the damages caused by its subjects.

2. That after the question shall have been sufficiently debated between the two governments or their diplomatic representatives, each one should consult, if it thinks fit, such bodies, whether of administrative or of judicial order, as it shall deem convenient for the more complete illustration of the subject.

3. That, the previous examination of the question having been initiated before the Government at Washington by the minister plenipotentiary of Spain, the termination of that subject shall be awaited before the presentation by the United States of their reclamation to the Spanish government.

As to the second of these suggestions, it may suffice to state that no body, administrative or judicial, exists in the United States which could be consulted by the President in the view of obtaining more complete illustration of the merits of the question or questions now pending between the two governments in regard to the acts of the *Virginus*, or the acts of the Spanish officers at Santiago de Cuba in or subsequent to her capture. It is not for me to presume to say what means the Spanish government may have of such consultation with domestic, administrative, or judicial bodies for its further information in the premises. Of the means or expediency of any such consultation on its part, the Spanish government is, of course, the proper and sole judge. The Government of the United States, at any rate, does not possess, in this respect, any means of judicial recourse, or of administrative consultation, or, indeed, any pertinent means of action, other than diplomatic discussion with the government of Spain.

As to the first and third of the suggestions made by your excellency, the reply is obvious, to wit, that, on the 18th of April last, Mr. Fish addressed a note to Admiral Polo de Bernabé, which, it would seem, cannot have been brought to the attention of your excellency. That note replies in full to Admiral Polo's note of the 2d of February, discussing amply all the grounds or arguments of claim submitted by him, and constitutes, as it is confidently believed and assumed, a complete answer to and rejection of the indefinite reclamations preferred by him on account of any acts of the *Virginus*.

Hence I am unable to perceive the profitableness of any further discussion in that direction, which could of necessity admit only of iteration and repetition of previous facts and arguments, without beneficial result to either government, unless that of Spain should now be prepared to enter into consideration of the ulterior remedy stipulated in the protocol of the 29th of November last.

Furthermore, as the discussion initiated by Admiral Polo at Washington has, in fact, reached its conclusion, and as the Government of the United States has, as it conceives, made conclusive defense to the claims thus presented by the Spanish government on account of the acts of the *Virginus*, there ceases to be any possible complication of argument between the claims of Spain in that respect and the claims of the United States on account of the acts of the Spanish officers at Santiago de Cuba.

True it is, as your excellency suggests, that counter-claims exist in the premises—that is to say, claims of Spain against the United States on one account, and claims of the United States against Spain on another account. But, as *discussion*, the discussion of the claims of Spain against the United States has been exhausted, although not her means of action under the protocol. And thus, notwithstanding the existence of counter-claims, nothing, it seems to me, remains for discussion in this behalf except the claims of the United States against Spain.

Independently of all which, and in a broader view of the whole matter, I respectfully submit that there is no essential or logical connection between the respective claims of the two governments, other than in the purely incidental and immaterial fact of the relation of each to the *Virginus*.

The respective claims stand on different facts; they are referable to different reasons of public law and of right; they comprehend different subjects; and any decision upon either claim, howsoever reached, whether by common accord or by arbitration, would of necessity be wholly independent of any decision upon the other in so far as regards the considerations on which it might be founded and justified. In such circumstances there may be offset of *results*, but there cannot be any offset of *arguments* or legal considerations.

Coming, then, to the present reclamation of the United States, permit me to observe in the first place, that any question of the character of the *Virginus*, of her previous history, or of the rightfulness of her capture, is wholly irrelevant to the present issue.

If, indeed, the illegality of her capture by the *Tornado* were an open question, I conceive that it would be easy to establish the following points, namely:

1. The *Virginus* could not be deemed a pirate, nor her expedition a piratical one, by any possible construction of the law of nations.

2. The *Virginus* was not a cruiser. She never made or attempted to make captures. At most, even as alleged by the Spanish government, she was but a merchant-vessel having contraband intention unexecuted, and, as *prima facie* an American bottom, she was not subject to capture by Spain on the high seas.

3. No municipal law of Spain could operate to impart legality to capture on the high seas; such authority could only be derived from the law of nations or convention, and in the present case it cannot be found in either.

4. The Spanish government itself, at the instance of the United States, had expressly waived all pretension of any such right of capture on the high seas in the modification made by Captain-General Caballero de Rodas on the 18th of July, 1869, of the tenor of his decree of the 7th of the same month, repealing the previous decree of Captain-General Dulce.

These and other pertinent suggestions might be made, I repeat, if the question were an open one; which, however, it is not, it having been explicitly determined by the protocol of November.

Unlawful, therefore, as was the capture of the *Virginus*, prejudicial as this capture was to the maritime rights of all nations of either hemisphere, injurious as it would have been, in the long run, to the interests of Spain herself to have any such pretended right of capture interpolated into the law of nations—nevertheless, and all these premises being admitted, and while the mere capture itself would have constituted serious cause of complaint, still, if the Spanish authorities in Cuba had subsequently pursued the course indicated by international law and by the universal practice of nations, that is to say, if they had taken the vessel into port for examination, and for possible trial before a court of admiralty, simply detaining uninjured her crew and passengers meanwhile, in such circumstances the injury done to the United States, although seriously justifying demand of redress, would not have assumed the portentous proportions which it actually did in consequence of the wholesale massacre of her officers, crew, and passengers, perpetrated at Santiago, which shocked the public sense of Europe as well as of America.

It is of these incidents which it is my duty now regretfully to speak, and to characterize them as they deserve, in the name of international law, of humanity, and civilization, by aid of the lights furnished by Spain herself as well as by other governments.

For it was the great fact of the inhuman slaughter in cold blood at Santiago de Cuba of fifty-three human beings, a large number of them citizens of the United States, defenseless persons, shot without lawful trial according either to the law of nations or to treaty, shot without any valid pretension of authority in the laws of Spain herself, and to the horror of the whole civilized world—this it was which produced such intense emotion in the United States, and which placed the two nations in imminent peril of war, so happily averted by the superior wisdom and patriotic discretion of the governments of Spain and the United States.

Your excellency will pardon me for repeating that this act has no conceivable justification, either in the law of nations or the municipal law of Spain, or in any conventional law; it being, on the contrary, in plain violation of treaty with the United States.

It was a dreadful, a savage act.

Your excellency, I feel sure, cannot condemn this language as too strong for the actual circumstances. For is it not the very language constantly applied at this day, in public documents and debates, to other acts of the same class, and especially to the shooting of defenseless prisoners? Is it not the mere echo of the cry of indignation and of horror which comes up from all Europe, in view of the military execution of twenty-three prisoners at Estella by Dorregary—the lamentable voice, as it were, of the outraged conscience of Christendom—and which still rings in our ears?

Nay, does not the fact of the unjust military execution of a single German subject at Estella inspire all Germany with indignation? And can the United States be silent

in face of the equally unjust military execution of many of her citizens at Santiago de Cuba?

Pardon me for thus alluding to incidents of civil war in this country, which, however, have ceased to be domestic incidents, and belong now to the general history of our times, and which, strikingly in contrast as they are with the conduct of the armies of the republic, may not improperly be alluded to here, in view of their manifest pertinence, and at the same time in the spirit of perfect deference for the government of Spain.

Indeed, it affords me gratification to witness and to honor the expressed determination on the part of the Spanish government, and of its generals in the field, never to lose sight of the sacred rights of humanity, even in the presence of the worst excesses of pitiless war, and in the face of whatsoever provocation.

But that which is wrong at Estella cannot be right at Santiago de Cuba.

I will not cease to believe, therefore, that the government of Spain, manifesting as it does thus conspicuously its utter condemnation of such heinous acts, and providing indemnity for the families of the victims thereof, will in the same spirit of exalted self-respect be prepared to do justice to the present reclamations of the United States.

With which I have the honor to renew to your excellency the assurance of my highest consideration.

C. CUSHING.

No. 567.

Mr. Fish to Mr. Cushing.

No. 59.]

DEPARTMENT OF STATE,
Washington, August 21, 1874.

SIR: Your dispatch No. 41, inclosing a copy of your note to Mr. Ulloa presenting the reclamation on behalf of the officers, crew, and passengers of the *Virginus*, was received upon the 17th of July. Upon a careful reading of this note to the minister of foreign affairs, it appeared to place the reclamation, even in the case of those who had been executed, principally, if not entirely, on the ground that the capture of the vessel was illegal. While it may be said that the capture being illegal, reparation must follow for all the subsequent acts, including the executions, at the same time it seemed that great stress might be laid upon the fact, at least so far as American citizens were affected, that such bloody deeds as were enacted at Santiago were contrary to the usages of civilized nations, in violation of treaty-obligations, without parallel, and entirely without excuse, and demanded full and complete reparation, entirely apart from the question of the illegality of the capture of the vessel. Nothing was said, however, on this point, as every confidence was felt that in the further presentation of the case, in your own way, you would completely and forcibly represent the whole case in conformity with the views and on the grounds orally discussed between us before your departure on your mission, and in such form as to make it most effective in its operation upon the Spanish government, and in the estimation of this Department.

Your dispatch No. 59 was also received, inclosing a copy of Mr. Ulloa's note in reply to your demand.

The Department is now in receipt of your No. 64, inclosing a copy of your reply to the minister of state. Your reply has been read with care and lively satisfaction.

Your presentation of the case, and the light in which you have placed it, meet with the entire approval of this Department.

It is most disappointing and unsatisfactory to learn, after the presentation of the claim for reclamation had been delayed many months, when ample time had been given for every investigation which could be required, when an opportunity had arisen for the government of Spain to meet the question freed from the excitement which surrounded the acts

which were complained of, when even the Spanish government had become loud in its expressions of horror at the execution of defenseless prisoners, in cold blood and without trial, that the answer submitted to your demand for redress for the occurrences at Santiago should be simply a plea for delay.

You will, on proper occasion, express to the government of Spain the strong feeling of this Government, that the questions so fully presented by you should be considered without delay, and that ample reparation, now too long deferred, should be promptly furnished.

This Department awaits with interest your further communication on this question.

* * * * *

I am, &c.,

HAMILTON FISH.

No. 568.

Mr. Cushing to Mr. Fish.

No. 91.]

LEGATION OF THE UNITED STATES,
Madrid, August 31, 1874. (Received September 28.)

SIR: I transmit herewith copy of the original, with translation of a note from the minister of state, in rejoinder to my second communication to him in the matter of the *Virginius*.

You will perceive, on reading this note, that, long as it is, it absolutely abstains from contesting any of the positions of my communication, and is wholly confined to the task of assigning reasons to justify the reference of the questions involved to the council of state; for that is the consultative body to which Mr. Ulloa alludes as the one whose opinion on the question is desired by the executive.

The council of state (*consejo de estado*) is composed of the ministers, and of a considerable number of other persons aggregated to them, for the purpose of examining and advising in the solution of administrative questions of transcendent magnitude.

Thus, on a recent occasion, the great controversy between the minister of hacienda and the British holders of Spanish bonds was referred for solution to the council of state; and such reference is common in other questions of similar importance.

* * * * *

I understand that, at or about the time of the date of Mr. Ulloa's note to me, he made verbal explanations, in the same sense, to representations which the British chargé d'affaires here had been instructed to present, in complaint of the delay of the Spanish government to satisfy the reclamations of the British government in behalf of the families of British subjects of the crew of the *Virginius*. I assumed in my note to Mr. Ulloa of July 21 that your communication to Admiral Polo de Bernabé of April 18 was to be regarded as a definite and final rejection of all reclamations made by the Spanish government against the United States on account of the *Virginius*; and I shall so continue to assume, unless otherwise advised by you.

* * * * *

Is it desirable that, in conversation with Mr. Ulloa, I should explicitly call his attention to this point in the present stage of the discussion,

or shall I wait, in that respect, until the opposite reclamation of the United States shall have been favorably answered by the Spanish government, or answered unfavorably, so as to raise the question of arbitration as the ultimate means of redress for the United States ?

* * * * *

I have, &c.,

C. CUSHING.

[Inclosure in No. 91.—Translation.]

Mr Ulloa to Mr. Cushing.

MINISTRY OF STATE,
Madrid, August 14, 1874.

SIR: On the 1st instant the note of the 21st ultimo reached me, in which you are pleased to examine the reasons I had the honor to lay before you in my note of the 7th of July last, and which prevented the Spanish government from giving an immediate solution, as it would have desired, to the reclamation initiated by the Government of Washington in regard to the capture of the steamer *Virginus*.

When I addressed to you the note to which I refer, there was no information in this ministry of the reply which, on the 18th of April, the honorable Secretary of State, Mr. Hamilton Fish, had given, and the argumentative answer of the minister of Spain in Washington, of date 2d of February, and only some days afterward did a printed copy reach my hands of so important and extensive a document, transmitted by Rear-Admiral Polo, shortly before leaving that country.

This circumstance will satisfactorily explain to you that I could not take into consideration the communication of Mr. Fish in my note of the 7th ultimo, and that I should at that time have considered unanswered the reply of our representative at Washington.

But even after having notice of the reply of the honorable Secretary of State, it is impossible for me to concur in your enlightened opinion, according to which, the ample and complete answer of Mr. Fish being once understood, the profitableness of any further discussion is not perceived by you, which, in your opinion, would necessarily constitute but a reiteration of facts and arguments, without beneficial result to either of the two governments.

In regard to the first point, you will permit me to say to you, that without ceasing to render the most complete justice to the eminent endowments which distinguish the worthy Secretary of State of the United States, and to his superior enlightenment, demonstrated once more in the discreet communication of the 18th of April last, nevertheless, the Spanish government cannot consider it as conclusive and victorious refutation, so as to put an end to the existing debate in which we are occupied.

And in regard to the second point, I beg you to observe that, precisely in order to avoid the inconveniences involved in the retortion of arguments, the persistence in appreciations, and the repetition of facts already alleged by both parties, and which would render this discussion interminable, the Spanish government has believed that the most legal, the most practical, and the shortest method was to recur to the high consultative bodies of the nation, that they may enlighten it with an authoritative decision, having before them all the antecedents, and even the very reply of April 18, which can throw much light on the question by its detailed reasonings, its extensive details, and the copiousness of data with which it abounds.

If, as you are pleased to manifest, in the administrative institutions of the United States there do not exist corporations analogous to ours, with which to consult in certain matters, such exception cannot exempt us in Spain from the right, and even the duty, of seeking such security of sound action in those decisions which are of considerable intrinsic importance, and which involve great responsibility for the executive power. And if this guarantee is indispensable, and cannot be refused in ordinary circumstances, to those intrusted with the administration of the country, you will agree that, with greater reason, the government which at present rules the destinies of Spain should protect itself with it, and invest its acts with such respectable sanction, seeing that at the present time the government cannot fortify its own judgment, in the solution of matters like that of the *Virginus*, with the opinion of the Cortes.

The Spanish government does not conceive that the course which it thus proposes to follow can be interpreted in any quarter as an expedient to postpone the principal question, or to elude the responsibility of its acts. Such a purpose could not be entertained, either under the point of view of self-estimation, or under the point of view of its interests pledged, to-day more than ever, in that the solution, whatever it may be,

of this affair, should be presented to the eyes of all, invested with the prestige of justice, of impartiality, and of the purest good faith.

If, in the reclamations in consequence of the capture of the *Virginus*, the only object were to repair as much as possible the damage done to certain individuals, or to equitably indemnify the innocent who suffers the consequences of an act in which he took no part, and which was carried out by one who should have provided for his support or sheltered his old age, the legitimate impatience which the hope of finding a truce to his misery excites in such destitute person could be justified; and then the government would not remain indifferent before an unmerited misfortune.

But when this aspect of the question appears as secondary besides other rights and other interests which are claimed and invoked, the Spanish government considers it to be its duty to elucidate these with the care they merit, in the assurance that the relative delay which this examination may produce will be highly beneficial to the most scrupulous exposition of the truth of the facts and of the severe application of the principles of justice, the only object the attainment of which is proposed by either government.

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

AUGUSTO ULLOA.

The MINISTER PLENIPOTENTIARY
Of the United States.

No. 569.

Mr. Fish to Mr. Cushing.

No. 80.]

DEPARTMENT OF STATE,
Washington, October 27, 1874.

SIR: Referring to your dispatch No. 91, transmitting a copy of the rejoinder of Mr. Ulloa, the minister of state, to your second communication in the matter of the *Virginus*, and to your comments thereon, I have to say that the course to be adopted has been carefully considered in the light of the facts presented by you. * * *

Mr. Ulloa, as you state, refrains from further discussion of the questions involved, and contents himself with assigning reasons why it is proper to refer the matter under discussion to the council of state, and had, as you further state, made similar verbal representations to the British chargé d'affaires, who had been instructed to complain of the delay of the Spanish government in giving a decisive answer to the demand of Great Britain.

You state that you shall regard the communication of the Secretary of State to Admiral Polo de Bernabé of the 18th of April as a definite and final rejection of the claims of the Spanish government, leaving it to that government to seek further redress, if at all, through the stipulation of the protocol of November 29, 1873, and ask whether you should explicitly call the attention of Mr. Ulloa to that point, or delay until a definite answer shall have been received to the reclamation on the part of the United States.

Concerning the reclamation of the Spanish government, * * * you may state that as the case now stands the demand of Spain has been rejected, and no probability exists of a change of decision on that question.

The reclamation of the Government of the United States stands upon different ground, and while being maintainable because the *Virginus* was illegally captured, is also maintainable upon the simpler and broader ground that no informality in the papers of the vessel, and no facts arising from her character or acts, could, under any circumstances, palliate or excuse the wanton, wicked, and brutal assassination of defense-

less men, who had unfortunately fallen into the hands of the military authorities in Cuba.

The rejoinder of the minister of state is a plea for delay.

It is doubtless competent for the government of Spain to take such advice and counsel as it may desire, but this is a domestic question in which this Government can in no way participate.

The Government of the United States, satisfied of the justness of its reclamation, presents it with no doubt or hesitation. We require no reference to assure us of the propriety and justness of our demand.

* If it be necessary to say anything on this point, you will inform the minister for foreign affairs that it is not the intention of this Government to take any part whatever in the means by which the government of Spain may reach a conclusion, but that we insist that such conclusion should be speedily arrived at, and this vexatious and dangerous question be once for all adjusted.

* * * * *

You are therefore instructed to press the reclamation of the United States upon the government of Spain firmly and plainly, and to represent that the delay in according to this Government what has been too long withheld is deemed a serious menace to the continued good relations of the two countries.

I am, &c.,

HAMILTON FISH.

No. 570.

Mr. Fish to the President.

DEPARTMENT OF STATE,

Washington, November 20, 1874.

SIR: I have the honor to lay before you a copy of a correspondence between the British chargé d'affaires at Madrid and the Spanish minister of foreign affairs in relation to the indemnity claimed by Great Britain for British subjects who were captured on board the *Virginus* and were slain at Santiago de Cuba.

This correspondence comes into my possession confidentially, but through a well-informed and trustworthy channel, and may be relied upon as substantially, although probably not a literally, accurate translation of the originals.

I shall transmit a copy to General Cushing for his information, as well as for the purpose of accurate verification of the text of the letters, if this be practicable.

I am very credibly assured, through other sources, that the payment of the sum promised to be paid to Great Britain in August last had not been made up to the 7th instant.

I have the honor to be, your obedient servant,

HAMILTON FISH.

The PRESIDENT.

[Inclosure.]

The chargé d'affaires of Great Britain to his excellency the minister of state.

MADRID, August 5, 1874.

SIR: Having communicated to the Earl of Derby the desire of your excellency that Her Majesty's government should, for the moment, delay agitation of the claims relat-

ing to the *Virginus*, I have received instructions from his excellency reminding that many months have already elapsed since the execution of the British subjects captured on board of the said steamer, and that the families of the persons executed have represented in several instances that they were in misery.

The last consideration, I am sure, will have weight in the mind of your excellency, as well as in that of the Spanish government.

Her Majesty's government has instructed me to represent that however much it does not desire to augment the difficulties of the Spanish government, yet it cannot permit that these claims should be postponed indefinitely, and therefore trusts that your excellency will have the goodness to give me a decisive promise that this matter will be arranged at a specified date, and not a very distant one.

I beg your excellency to receive, &c.

H. G. MACDONELL.

The minister of state to the chargé d'affaires of Great Britain.

MADRID, August 14, 1874.

DEAR SIR: I have received the note of your lordship, dated 5th instant, in which, by instruction of Lord Derby, your lordship has the goodness to represent to me that, many months having elapsed since the deplorable event of the *Virginus*, the families of the British subjects captured on board of her, and executed at Santiago de Cuba, had reiterated their solicitations to Her Majesty's government, in order to obtain some indemnity that should alleviate their misfortunes.

The British government is not ignorant of the motives which have until now obliged the government of Spain not to refuse, but to postpone, the arrangement of the respective indemnity to the British subjects; but, as your lordship very justly supposes in your note, the consideration of the miserable state in which the families of those unfortunates are placed can have no less weight in the mind of the Spanish government, and will induce it to anticipate the time when the above-mentioned families shall receive, in a formal and definite manner, some amount of money.

To this end the executive power of the Spanish Republic will, without prejudging the foundation of this matter, have no objection to give timely orders that an amount be forwarded for distribution among the families of the British subjects captured on board the *Virginus* and executed at Santiago de Cuba, reserving to itself the option of sending as much as necessary until the total amount of the indemnity, to be agreed upon by both governments, is completed, when the principal question shall have been settled in this manner.

Your lordship can, if you think it convenient, inform the government of Her Britannic Majesty of this proposition, which has been inspired by the best desire not to delay the sending of assistance to those interested, without, however, precipitating the official course indispensable for proper settlement of the question which is before us.

I avail myself, &c.

AUGUSTO ULLOA.

The chargé d'affaires of Great Britain to his excellency the minister of state.

MADRID, August 15, 1874.

SIR: I have to thank your excellency for the prompt reply which you have kindly made to the communication I had the honor to address you at date of 5th instant, and in consequence of which I hasten to inform your excellency that I have been authorized by the government of Her Britannic Majesty to accept the amount deemed just as indemnity to the British subjects captured on board the *Virginus* and subsequently executed in Havana.

Being in accord upon this point, I have the honor to inform your excellency of the total amount of the claim made by the government of Her Britannic Majesty in favor of those injured by that event.

The number of individuals executed amounts to nineteen, among whom were nine colored and ten white men. For each of the colored men Her Britannic Majesty's government claims three hundred pounds, (£300,) and for each of the white men five hundred pounds, (£500,) which makes a total of seven thousand seven hundred pounds, (£7,700,) it being understood that, in case no relative of the victim presents himself to establish his claim, or should not prove his right within a reasonable time, the amount paid in his favor to the government of Her Britannic Majesty shall be immediately refunded to the Spanish government.

In submitting the foregoing figures to the consideration of your excellency, I have no doubt of receiving a favorable reply, trusting that the Spanish government, guided by its elevated sentiments of justice, will be in accord with the government of Her Britannic Majesty, and consider as just and equitable the amount fixed as indemnity.

I avail myself, &c.,

H. G. MACDONELL.

The minister of state to the chargé d'affaires of Great Britain.

MADRID, August 18, 1874.

DEAR SIR: I have received the note of your lordship, dated 15th instant, by which you have the goodness to inform me, in reply to that I had the honor to address you on the 14th instant, that your lordship is authorized by the government of Her Britannic Majesty to accept the proposition presented by me in the name of the executive power; a proposition to furnish the sum agreed upon by both governments, in order that the same be, in the nature of an advance, distributed among the families of the British subjects captured on board the *Virginus* and executed at Santiago de Cuba. Your lordship adds, in the note to which I have the honor of replying, that the number of these unfortunates amount to nineteen, of whom ten are white men, and the remaining nine colored, the government of Great Britain deeming it fit to fix the indemnity at the amount of five hundred pounds (£500) for each of the individuals of the white race, and at three hundred pounds (£300) for each of the colored, resulting in a sum-total of seven thousand seven hundred pounds, (£7,700) which the Spanish government is to furnish for the object agreed upon.

The executive power consents on its part to the amount fixed, and will give timely orders, through the minister of finance, for the immediate transfer of six thousand seven hundred pounds (£6,700) in London, to be placed at the disposal of Her Britannic Majesty, being prepared to forward the remaining thousand pounds to make up the total amount of seven thousand seven hundred pounds (£7,700) when the subject shall have been definitely terminated, in accordance with the proposition of my note of the 14th instant, the government of Great Britain, on its part, agreeing to refund to the Spanish government the portion or portions of those individuals, respectively, whose relatives should present no claim, or not clearly establish their right to receive the indemnity within a reasonable time.

I avail myself, &c.,

AUGUSTO ULLOA,
The Minister of State.

No. 571.

The exact text of the above correspondence, and the other correspondence at the time on this question, appears in British Parliamentary Papers, Spain, No. 1, (1875), as follows:

No. 1.

The Earl of Derby to Mr. Macdonell.

FOREIGN OFFICE, August 13, 1874.

SIR: On the 10th instant I received from you a telegram informing me that the Spanish government had forwarded to you a project of a note, expressing their willingness to pay, as an advance, such sum as might be claimed by Her Majesty's government for the relief of the families of the British subjects taken on board the *Virginus* and executed at Santiago de Cuba; but that, while the American claims are still pending, the Spanish government do not wish to admit the principle involved in the matter.

I have now to instruct you to state to the Spanish minister for foreign affairs that Her Majesty's government accept the arrangement proposed by his excellency, and you will add that Her Majesty's government consider the following would be a fair amount for the Spanish government to pay:

To the family of each colored man, of whom there were nine, £300, making £2,700.
To the family of each white man, of whom there were ten, £500, making £5,000.
Total, £7,700.

You will also state, that in any case where no near relations of one of the persons executed come forward to make a claim, or in case any alleged relatives fail to prove their claim within a reasonable time, the money paid on account of such claim shall be repaid to the Spanish government.

The substance of the above instructions has already been sent to you by telegraph. I inclose, for your information, a copy of a memorandum, showing the names of the British subjects in question, and the information regarding each of them in possession of this office.

I am, &c.

DERBY.

No. 2.

Mr. Macdonell to the Earl of Derby.—(Received August 23.)

[Extract.]

MADRID, August 19, 1874.

In accordance with your lordship's instructions, I addressed a note to the minister of foreign affairs, copy of which I have the honor to inclose, informing his excellency that Her Majesty's government could admit of no further delay in the settlement of the claims arising out of the capture and subsequent execution of the British subjects on board of the *Virginus*.

In delivering the above note to Señor Ulloa, I expressed the hope that he would consult with his colleagues as to the best mode of settling this question, which, under the circumstances specified in my note, admitted of no further postponement.

Señor Ulloa again assured me that the Spanish government were most desirous to see this affair brought to a close, so far as Her Majesty's government were concerned, but that unfortunately it was not in the power of the Spanish government to act as promptly as your lordship desired; that, owing to the United States Government having also an interest in this matter, the Spanish government would find itself in an embarrassing position, were it to establish a precedent by favoring the English claimants; but the different claims and counter-claims between the United States and Spain were now under consideration, and that if Her Majesty's government would be good enough to postpone the settlement of their claims for a short time longer, he could give me the positive assurance that as soon as the council of state re-assembled (at the end of September) the payment of the indemnity would immediately be effected.

I expressed great regret at not being able to comply with his excellency's request; that your lordship's instructions on the subject were definite, and that all I could do was to submit to your lordship's favorable consideration any reasonable suggestion his excellency might make; but that steps must be taken to satisfy the just demands of the families of the sufferers.

After some discussion, I agreed to submit to your lordship the proposal, which Her Majesty's government have since accepted, and the acceptance of which I have notified to the Spanish government, viz, that a certain sum should be paid, under the name of an advance, for the relief of the families of the victims, without prejudice to the principle involved: and I availed myself of that occasion to acquaint Señor Ulloa with the amount of the indemnity claimed.

On calling upon the minister the following day, his excellency said that he considered the sum demanded by Her Majesty's government very large, and far more considerable than he had been led to anticipate.

I pointed out that it was far below the estimate of the Spanish government, as applied to the families of those who fell at the hands of the Carlists.

However, I thought I might venture to make the following arrangement, which has since been accepted by the Spanish government, viz, that the sum of £1,000, by which the Spanish government seem desirous of reducing the claim, should be held by them as the balance to be paid on the final settlement of this question; by this means Her Majesty's government will eventually receive payment in full of the total amount claimed.

Accordingly, Señor Ulloa has now addressed to me a note, informing me that orders have been given to the ministry of finance for the immediate payment to Her Majesty's government in London of the sum of £6,700, it being clearly understood that the balance of £1,000 shall be paid when the question of the *Virginus* claims shall have been definitely settled by the council of state.

In submitting the above arrangement to your lordship, I trust that your lordship will not be of opinion that I have gone too far in assuming the responsibility of accepting the modifications proposed by the Spanish government.

[Inclosure 1 in No. 2.]

Mr. Macdonell to Mr. Ulloa.

MADRID, August 5, 1874.

M. LE MINISTRE: Having reported to the Earl of Derby your excellency's desire that Her Majesty's government might defer for the present pressing for a settlement of the Virginus claims, I am instructed by his lordship to remind your excellency that many months have now elapsed since the execution of the British subjects taken on board the Virginus, and that in several instances the families of the persons executed are in distress. The latter consideration will, I am convinced, have full weight with your excellency, as well as with the Spanish government.

Her Majesty's government have desired me to add that, though they are most unwilling to add to the difficulties of the Spanish government, yet they cannot allow these claims to be postponed indefinitely, and I trust, therefore, that your excellency will be able to give me a decided promise that the matter shall be settled by a fixed and not too distant date.

I avail, &c.

H. G. MACDONELL.

[Inclosure 2 in No. 2.]

Señor Ulloa to Mr. Macdonell.

[Translation.]

MADRID, August 14, 1874.

SIR: I have received your note of the 5th instant, in which, by instructions from Lord Derby, you state to me that many months having elapsed since the occurrence of the sad events connected with the Virginus, the families of the English persons captured on board of her and executed at Santiago de Cuba renew their requests to Her Majesty's government to obtain some indemnity for the relief of their misfortune.

The British government is aware of the reasons which have, up to this time, obliged the Spanish government not to refuse to arrange, but to put off the arrangement of this indemnity with regard to British subjects, but, as you very justly suppose in your note, the consideration of the present miserable state of the families of those unfortunate persons cannot but have an influence on the Spanish government and move them not to wait for the moment when, in a definitive and formal manner, the said families may receive some sum of money.

To that end, the executive power of the Spanish republic, without prejudging the essence of this matter, will have no objection to give orders for handing over a sum of money for distribution among the families of the British subjects captured on board the Virginus and executed at Santiago de Cuba, reserving the delivery of what may be necessary for the completion of the whole amount of the indemnity that may be agreed upon between the two governments when the principal question may have been definitely settled in that sense.

You can, if you think fit, bring this proposal to the knowledge of Her Britannic Majesty's government, inspired as it is by the strongest wish not to delay the sending of succor to the parties interested, without precipitating the official course indispensable for coming to a right decision in the present question.

I avail, &c.

A. ULLOA.

[Inclosure 3 in No. 2.]

Mr. Macdonell to Mr. Ulloa.

MADRID, August 15, 1874.

M. LE MINISTRE: I beg to thank your excellency for the ready acknowledgment of the communication I had the honor to address to you on the 5th instant, and I hasten to inform your excellency in reply that I have been authorized by Her Majesty's government to accept an advance on the sum which they deem due, as compensation, to the families of the British subjects captured on board the Virginus and subsequently shot at Santiago de Cuba.

This point having been settled, it now becomes my duty to acquaint your excellency with the total amount claimed by Her Majesty's government on behalf of those who suffered on that occasion. The individuals executed numbered nineteen, of whom nine were men of color, and ten were white men. For the colored men Her Majesty's gov-

ernment claim of £300 sterling each, and for the white men £500 sterling each; which constitutes at otal of £7,700 sterling, it being clearly understood that in the event of no near relative of these men coming forward to establish a claim, or failing to substantiate it, within a reasonable period, the amount paid to Her Majesty's government on behalf of such individual or individuals shall be forthwith restituted to the Spanish government.

In submitting the above figures to your excellency, I have no hesitation in looking forward to a favorable reply, confident that the Spanish government, guided by their high sense of justice, will readily agree with the government of Her Majesty in considering the amount of compensation claimed both fair and equitable.

I avail, &c.

H. G. MACDONELL.

[Inclosure 4 in No. 2.—Translation.]

Mr. Ulloa to Mr. Macdonell.

MADRID, August 18, 1874.

SIR: I have received your note of the 15th instant, in which you state to me, in answer to the note which I had the honor of addressing to you on the 14th, that you are authorized by Her Britannic Majesty's government to accept the proposal made by me in the name of the executive power, to give the sum to which both governments might agree, for distribution, in the light of an advance, among the families of the British subjects taken on board the *Virginus* and executed at Santiago de Cuba.

You add, in the note to which I have the honor to reply, that as there were nineteen of those unfortunate persons, of whom ten were white men, and the other nine were men of color; and as the British government think that they ought to fix, as the rate of indemnity, the sum of £500 sterling for each white man, and £300 for each man of color, the sum total would amount to £7,700, to be given by the Spanish government for the purpose agreed upon.

The executive power of the nation agree, on their side, to the sum fixed, and will give the necessary orders, through the ministry of finance, so that £6,700 may be at once placed in London at the disposal of Her Britannic Majesty's government, and the remaining £1,000, wanting for the completion of the whole sum of £7,700, will be handed over when this matter shall be definitely settled according to that which is proposed in my note of 14th instant; the British government promising, in their turn, to re-imburse to the Spanish government the sum or sums corresponding to those individuals whose relations may make no claim, or may not fully prove, within a reasonable time, their right to receive the indemnity.

I avail, &c.

A. ULLOA.

No. 3.

The Earl of Derby to Mr. Macdonell.

FOREIGN OFFICE, September 7, 1874.

SIR: I have received your dispatch of the 19th instant, inclosing copies of a correspondence with the Spanish minister for foreign affairs, from which it appears that orders have been given for the immediate payment to Her Majesty's government of £6,700, as compensation to the relatives of the British subjects taken on board the *Virginus* and executed at Santiago, and that a further sum of £1,000 will be paid when the question has been definitely settled by the council of state.

I approve your proceedings in this matter, as reported in your above-mentioned dispatch, and I have to instruct you to express to Señor Ulloa the satisfaction with which Her Majesty's government have learned that their proposals for the settlement of the question have been accepted by the government of Spain.

I am, &c.,

DERBY.

No. 4.

Mr. Layard to the Earl of Derby.—(Received December 5.)

MADRID, November 25, 1874.

MY LORD: Señor Ulloa expressed the greatest surprise when I told him two days ago that the indemnities to the families of the British subjects taken on board the

Virginibus and executed at Santiago had not been paid to your lordship. I could scarcely persuade him that such was the case. He said that he would go at once to the minister of finance and ask for an explanation. In the evening he informed me that he had seen his colleague on the subject, and that peremptory orders would be given on Wednesday (to-day) for the payment of the money without further delay. I trust, therefore, that your lordship will now have received it, or that M. de Comyn is prepared to hand it over to you.

I have, &c.,

A. H. LAYARD.

No. 5.

The Earl of Derby to Mr. Comyn.

FOREIGN OFFICE, December 10, 1874.

M. LE MINISTRE: I have the honor to acquaint you that I have received a dispatch from Her Majesty's minister at Madrid, dated the 25th ultimo, reporting that he had been informed by Señor Ulloa, two days previously, that peremptory orders would at once be given for the payment to Her Majesty's government of the indemnities due to the relatives of the British subjects who were shot at Santiago de Cuba in November, 1873; and I now beg to request that you will have the goodness to inform me whether you have received any instructions from your government in the matter.

I have, &c.,

DERBY.

No. 6.

Mr. Comyn to the Earl of Derby.—(Received December 16.)

[Translation.]

LONDON, December 14, 1874.

MY LORD: In conformity with the orders received from my government, I have the honor of inclosing herewith a check drawn with this day's date upon Messrs. Frederick Huth & Co., of this city, to the order of your excellency as principal secretary of state for foreign affairs, for the sum of £6,700 sterling, agreed upon for the settlement of the affair of the steamer Virginibus.

I beg that your excellency will be pleased to acknowledge the receipt of the said sum.

I have, &c.,

JUAN S. COMYN.

No. 7.

The Earl of Derby to Mr. Comyn.

FOREIGN OFFICE, December 18, 1874.

M. LE MINISTRE: I have the honor to acknowledge the receipt of your letter of the 14th instant, inclosing a check on Messrs. Huth & Co., of this city, to my order, for the sum of £6,700, on account of the claims of the families of the British subjects taken on board the Virginibus and executed at Santiago de Cuba in November, 1873.

I have, &c.,

DERBY.

No. 8.

The Earl of Derby to Mr. Layard.

FOREIGN OFFICE, December 19, 1874.

SIR: I transmit to you herewith a copy of a note from the Spanish minister at this Court,* inclosing a check for £6,700, on account of the claims of the families of the British subjects executed at Santiago de Cuba, in November, 1873, for participation in the Virginibus affair.

I also inclose a copy of the answer which I have returned to Señor Comyn.†

I am, &c.,

DERBY.

No. 572.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *November 25, 1874.*FISH, *Secretary of State, Washington:*

In private note dated yesterday, minister of state, after complaining of unfairness and ill effects of article on Virginius question in the newspapers, says, in substance, that the Spanish government is disposed to concede to the United States indemnification in every respect similar in signification and limits to that granted to England, providing that stipulation be made, as has been done with England, respecting the character of this resolution, and that beforehand shall be determined the several points which, in the affair of the Virginius, establish for Spain, with respect to the United States, different rights from those which exist in this matter with regard to England, being such rights as are clearly derivable from the acts and declarations of the United States. Spain will abide in all events by all the stipulations in protocol, and, in the improbable event of not reaching a direct accommodation, will have recourse to the arbitration stipulated therein.

I telegraph, literally, the material parts of the note, which contains strong expressions of solicitude and purpose of Spanish government to establish most friendly relations with President Grant.

CUSHING.

 No. 573.
Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *November 27, 1874.*FISH, *Secretary of State, Washington:*

Interview with minister of state last night. He repeated and enlarged upon contents of private note. President decided in July to satisfy the claims of Great Britain and the United States. Delay in latter case produced by absence in the ministry of any official knowledge of its own of details in Cuba. Documents only received in last few days. Ministers of state and colonies diligently occupied now in preference to other matters in the preparation of propositions for submission to the United States. He doubts the possibility of consummating the negotiation in a week, but will spare no effort to hasten conclusion. On this and other considerations he prefers to continue the negotiation at Madrid. I feel confident of his sincerity and good faith for many reasons, but will promptly telegraph every suggestion or incident of possible information for the Department.

CUSHING.

No. 574.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, November 28, 1874.

CUSHING, *Minister, Madrid* :

* * * * *

In settlement, all of the crew not claimed by Great Britain, and for whom she did not receive indemnity, must be treated as American seamen. No less sum can be received for any than that paid England for white persons, namely, not less than twenty-five hundred dollars; captain, mate, engineers, purser, and doctor should be allowed more. Three of the passengers slain are supposed to have been American citizens, and must be allowed for same as others.

You will ask indemnity for detention and imprisonment and for losses sustained by those of the crew, and by passengers who are American citizens who were not executed. We understand the number of these to be fifteen of the crew, including two engineers and one assistant, and four of the passengers, nineteen in all.

FISH.

 No. 575.
Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, November 30, 1874. (Received 12.30 p. m., Nov. 30.)

FISH, *Secretary of State, Washington*:

Instruction of twenty-eighth received, and will be punctually obeyed.
CUSHING.

 No. 576.
Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, December 4, 1874. (Received December 4.)

FISH, *Secretary of State, Washington* :

Long note received from Ulloa at twelve last night, which discusses the legal questions from his point of view, but concedes indemnity to the United States on the same basis as to Great Britain, and also trial of local authorities implicated. Telegram of details in preparation.

CUSHING.

No. 577.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *December 4, 1874.*FISH, *Secretary of State, Washington:*

Mr. Ulloa argues, temperately and in direct response to my notes, to general questions: first, that of arrest on the high seas, and second, that of the true character of the ship's company, on both points citing legal authorities, and in the latter quoting dispatches of Mr. Seward. He then proceeds substantially as follows:

I would have liked to convince you that the fundamental motive Spain has had to consider those on the *Virginus* as pirates is not so very absurd nor unreasonable, and that, supposing Spain erred in so regarding them, she would have been induced thereto by eminent writers and authorities.

The terrible consequences entailed on some of the unfortunates on board, and which the orders of the executive arrived in Santiago too late to avert—the lines being cut by insurgents—could not but move Spain, situated between strict fulfillment of laws in special circumstances and sentiments of pity common to all, but which latter should be stifled by duty, and in defense of high interests.

That duty fulfilled, humane sentiments may now seek not to remedy an irreparable punishment, but to alleviate and console those who, although not sharing the crime, suffer consequences of the expiation imposed by the law.

Spain having proved her sincerity by granting large pecuniary relief to families of British subjects executed at Santiago, would fail in her just duty did she not act in the same way toward the families of American citizens captured and executed.

The indications in my note of August fourteenth prove that, in settling thus with England, no discrimination was thought of against the United States. You will please express conformity, so that payment may be made through Spanish minister at Washington, in same terms as accepted by England.

Regarding Burriel, Mr. Ulloa says substantially:

* * * * *

and proceeds as follows—

I have answered your notes, and showed our point of view, trusting that the Government of Washington will examine our arguments in a spirit of conciliation, in order to arrive at a direct settlement. But if my hopes fail, and the United States do not regard this affair as terminated, notwithstanding my declarations, all of which are favorable to the concord and better understanding of the two countries, then Spain will be prepared to submit the integral settlement of our differences to arbitration.

Minister concludes by reminding me that many of the differences between the two countries have arisen from violations of law committed by foreigners in the United States, and expresses hopes that, in the interests of both nations, no such occasions of difference may hereafter arise. In a private note Mr. Ulloa requests me to telegraph you the material contents of his official note, which I have done, but I think it important you should see the full text before taking any definite action.

CUSHING.

No. 578.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *December 7, 1874.*CUSHING, *Minister, Madrid:*

First. Telegram of December 4 received imperfectly. So far as understood, the first point in Ulloa's note seems to assert legality of capture of Virginius as to make acceptance of indemnity, under second point, an admission of the first, and to estop denial of lawfulness of capture.

Second. If arrangement for indemnity be reached, care must be taken that it carries with it no implication admitting any point which this Government has controverted with regard to the lawfulness of the capture or of the subsequent executions. If satisfactory indemnity be offered, not coupled with any admissions, implied or expressed, on these points, it will be received.

Third. On third point, Spain seems to claim that the investigation into conduct of authorities at Santiago must be made.

Fourth. The distinction between white and colored in the indemnity to England cannot be admitted as founded on color; but a discrimination resting on the relative rank and ages of the parties is proper, and this is the basis of the discrimination asked by this Government in favor of officers.

It is hoped that you may succeed in reaching a satisfactory settlement.

FISH, *Secretary.*

No. 579.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *December 11, 1874.*CUSHING, *Minister, Madrid:*

If Spain will pay indemnities as indicated in my telegram of November 28, without any admissions or implications on the part of this Government, you are authorized to discuss and arrange details.

Should you have doubt on any point, you will refer to this Government, and before concluding a settlement you will submit its terms.

FISH, *Secretary.*

No. 580.

Mr. Cushing to Mr. Fish.

No. 156.]

LEGATION OF THE UNITED STATES,
Madrid, November 25, 1874. (Received December 18.)

SIR: I inclose herewith translation and copy of the original of a note from the minister of state, marked "private," under date of November 24,

1874, and received this day, expressing the resolution of the Spanish government to make indemnity in behalf of citizens of the United States executed at Santiago de Cuba, on the same basis as in the case of the subjects of Great Britain, with proviso of previous explanation on some points of difference; and, in the absence of agreement in that respect, then at once to recur to arbitration.

It is the note of which the material parts were this day transmitted to you by telegraph.

* * * * *

I am, &c.,

C. CUSHING.

[Enclosure 1 in No. 156.]

Mr. Ulloa to Mr. Cushing.

[Private.—Translation.]

MINISTRY OF STATE, *November 24, 1874.*

MY ESTEEMED FRIEND:

* * * * *

I must, therefore, repeat to you that the Spanish government has been from the first disposed to concede to the United States an indemnification in every respect similar in its signification and in its limits to that which it has granted for the execution of the English subjects, provided that stipulation be made, as has been with England, respecting the character of this resolution, and that beforehand shall be fixed and determined the several points which, in the affair of the *Virginus*, establish for Spain, with respect to the American Republic, different rights from those which exist in this matter with regard to England. Those rights which are clearly derivable from the acts and declarations of the Government of Washington itself being determined, Spain will take satisfaction in proceeding with the United States as it has acted with England; and it gives me pleasure to make this known from now henceforth, being also able to confide to your nobleness and discretion that, all the eventualities which may present themselves to our rectitude being foreseen as they are in the protocol of November, 1873, Spain will not in any contingency depart from that which is stipulated in the said protocol, or, expressing myself in other terms, that in the improbable event of not arriving at a direct accommodation, we will have recourse to the arbitration stipulated in that document.

I believe that in these lines I have fully demonstrated to how high a point the Spanish government carries its conciliatory sentiments, and its desires to maintain with that of President Grant a worthy and cordial understanding founded in reciprocal esteem.

Within a very short time I will explain these indications, to which I have not before given an official form owing to the necessity of asking from Cuba reports and data, which I now fortunately possess complete.

I have, meanwhile, wished to anticipate to your clear intelligence a confirmation of our resolution, and to improve an occasion, as satisfactory as all have been, to again subscribe myself with the greatest consideration, your attentive and obedient servant,
(Q. B. S. M.,)

AUGUSTO ULLOA.

His Excellency Mr. CALEB CUSHING,
Minister of the United States.

No. 581.

Mr. Cushing to Mr. Fish.

No. 177.]

LEGATION OF THE UNITED STATES,
Madrid, December 5, 1874. (Received December 24.)

SIR: I inclose herewith translation of an official note from the minister of state, together with translation of a private note, both delivered at midnight of Thursday, the 3d instant.

* * * * *

I content myself, at present, with calling your attention to certain expressions in the private note which tend to show that, while Mr. Ulloa considered it his duty to argue his side of the question in response to my several notes, nevertheless, in his understanding of the matter, the acceptance of his proposition, with such ultimate modification of it as you may propose, will constitute a definitive settlement of the whole controversy.

In fact, when taking into consideration the very positive tone of some of my notes to Mr. Ulloa, it seems to me that this note of his, constituting argumentative response to all mine, deserves to be regarded as calm and temperate in spirit and language, and conceived in the purpose of not keeping alive the controversy.

I have, &c.,

C. CUSHING.

[Enclosure in No. 177.—Translation.]

Mr. Ulloa to Mr. Cushing.

Madrid, December 3, 1874. (Received December 3—12 night.)

MINISTRY OF STATE,

SIR: On the 14th of August last, while answering the note which you were pleased to address me under date of the 21st of July, I had the honor to set forth to you the reasons which, against its will, prevented the Spanish government from satisfying, at that moment, the desires of the Government of the United States, by giving a definitive reply to the reclamations presented by you in consequence of the seizure of the steamer *Virginus* on the coast of Cuba. Among the causes of that enforced delay, the principal ones were the necessity under which the government was of hearing the authoritative opinion of the high consultive bodies of the state concerning such an important matter, and of completing in this ministry the detailed study of all the antecedents, with certain data, of which I awaited the collection, in order to form the exact and impartial judgment I desired before adopting a definitive resolution.

All the procedures which were counseled by the most careful prudence and by the desire to form a sound opinion having been followed, the Spanish government has now the satisfaction to answer with completeness the notes from your legation dated 26th and 27th of June, 21st of July, and 24th of September, of this year, and even the last, of the 30th ultimo, which has recently reached my hands, taking up the principal points of each, and of which I was not able to treat with the necessary opportuneness for the reasons indicated.

It is impossible to ignore the extremely grave importance attaching to this question, known as that of the *Virginus*, or the responsibility which the governments of Spain and of the United States have contracted in the eyes of their respective countries, taking upon themselves to acquire knowledge of the facts and submitting the settlement of their differences to the attentive examination of the executive power, the zealous but dispassionate guardian of the honor and of the rights of the nation which it represents.

Fortunately, everything leads to the hope that both the government of Madrid and the Cabinet at Washington, inspired solely by the purest sentiments of justice and of equity, have no insuperable obstacle to encounter in reaching an honorable agreement worthy of the two great nations, who have been ever united by the closest ties of friendship, and who equally contemplate in their progress and in a lasting peace the realization of their present welfare and their aspirations in the future.

But still, in order that one and the other government, starting from so lofty a point of view and without abandoning the defense of the high interests which they have in charge, may succeed in coinciding in a solution equally acceptable to all, it would be necessary that the one as well as the other, yielding somewhat of that which they may deem to be of strict right in their pretensions, or which they may hold to be unquestionable in their own estimation, should hasten to seek in equity and in general expediency the honorable and satisfactory decision which the inflexible precepts of strict or absolute justice could not vouchsafe to them without laborious efforts, and, perhaps, without painful moral sacrifices.

The Spanish government, anxious to succeed, by all legitimate and decorous means, in putting an end to such vexatious differences, will, for its part, not shrink from making those concessions and renunciations which do not imply abdication of the sovereignty and independence of the nation, or which might be construed as an

abandonment of the national dignity, provided that the Government of the United States, nobly co-operating to the same end, is disposed to make equal concessions under like reservations.

This solemn controversy being thus set upon practical ground, mutually advantageous from the point of view of a speedy and satisfactory conclusion without detriment to our respective national interests, nothing could supervene to hinder the realization of the friendly desires which animate alike the Spanish government and that of the republic of the United States, and their present governors would win the enviable honor of having brought to a happy conclusion this laborious conflict, without disturbance of the good relations which have ever existed between the two peoples, but rather strengthening the ties of amity and of cordial understanding which unite them.

The Government of the United States insists that it has never recognized the right of other powers to detain and visit, in free seas and in time of peace, the vessels which may carry the American flag, and that, relying upon the inflexibility of this principle, it is bound to consider the seizure of the *Virginus* as illegal and in violation of the international practices admitted among cultured nations.

Without pausing to examine how far it is expedient to attribute this inflexibility to international principles and rules which do not directly emanate from the immutable principles of right, and which need the sanction of time, of universal custom, and of general and explicit consent of nations, it will be sufficient to observe that the right of visit, by its own nature, is one of those which have been most subject to the vicissitudes of the times, to the influence of progress, and to the development of maritime commerce, rigor in its application having been always dependent upon circumstances, as it could not otherwise be. Referring ourselves only to the modern epoch, we see the United States combating it tenaciously prior to 1842 with respect to the abolition of the slave-trade, imposing their prohibition subsequently in the Ashburton treaty, yielding under certain conditions in 1861 for reasons which affected social interests of magnitude, and agreeing, lastly, to maintain a cruiser on the coasts of Africa to visit and search the vessels of the Union. I mean, by this, that whatever may be the rigor with which the United States assert the maintenance of that prohibition, nothing has opposed, or is likely to oppose in future, the modification of its conditions according to circumstances, an inflexible rigidity not being essential, as it is not for the objects of the precept. Laudable is the object for which the right of search is denied in time of peace; plausible and meritorious is the desire to protect the freedom of the seas from the abuses of force, and to shelter the commerce of all nations from the vexations and the prejudices which might be inflicted thereon by the arbitrariness of the stronger power. But shall we not find some practical inconvenience in the exaggerated limitation imposed upon this right of visitation? Could there not be conflict among the principles that support and recommend it, and other legitimate rights which merit consideration, and which ought not to suffer or be disparaged?

The right to inquire the nationality of a merchant-vessel, and even to board it in certain cases, on the high seas, has been always regarded as a means of exercising maritime police, and of protecting the security of commerce between civilized nations. But as the right of visit is a limitation set upon the freedom of the seas, which not only does not restrict it, but rather guarantees and protects it, the exaggerated and narrow conditions to which the United States seek to reduce it might result in converting the seas into a secure and inviolable asylum for the wrong-doer, who would choose that element as the field of his criminal undertakings. It is not to be deduced herefrom that, at any time, and for all motives whatsoever, the right of visit should be permitted as may suit the arbitrariness or the convenience of the war marine; but neither does it appear rational to exclude it decisively and absolutely under all circumstances, except during a state of war and between belligerents recognized as such. Neither natural law nor the law of nations can authorize, nor the independence of nations permit, that the enemies of a sovereign state can, with impunity, navigate the high seas, carrying soldiers and resources to the hosts of an enemy without the country menaced by such an invasion having the privilege of disturbing them, provided that they sail under the protection of a neutral flag and warily keep at a distance of three miles from the coast, even though it be known and demonstrated evidently that the object of their presence upon the sea is aggressive and hostile. An unconditional and absolute prohibition would, moreover, restrict, if not completely annul, the right of self-preservation and of self-defense, which is a right with respect to other countries, and one of the most solemn and sacred of the duties of any state with relation to its citizens; or, as the eminent English juriconsult, Phillimore, says,* it "is the first law of nations, as it is of individuals. A society which is not in a condition to repel aggression from without is wanting in its principal duty to the members of which it is composed and to the chief end of its institution." The same writer and others, Wheaton, Halleck, not less illustrious among the American authorities, concede to the right of defense the first place above all other rights, and agree that it is pre-eminent and

* Phillimore, *International Law*, part III, chap. X, paragraph CC, XI, (cc.)

superior to that of the inviolability of territory ; so that in case of conflict it should be the first to be sustained, even though at the expense of the second.

If we consider the prudent and sufficiently guaranteed exercise of the right of visit (a right of which the United States themselves have at times made use under grave circumstances) as the only measure capable of preventing, in given cases, the perpetration of unlawful attacks against the security of a legitimately constituted state, it should not be governed by the intransigence and the inflexibility which it is sought to attribute to an international law having for its supreme object the protection of the liberty of commerce in good faith and the free transit of the seas. And, in any case, it does not seem just to appeal to the inviolability of such a principle, in order to cover with an immunity established in favor of peaceful and honest commerce, the criminals who carry war and desolation to the hospitable shores of a friendly power, and which would even extend to pirates, in whose extirpation all the nations of the globe are interested. And when legitimate governments, accidentally engaged in stifling an intestine rebellion, are deprived of the power of detaining a well-known vessel which, setting sail from a foreign port, goes to consummate a piratical enterprise, pompously and insolently announced beforehand by the filibuster press, to what sort of recourse or to what manner of preventive measures would it be lawful to resort ?

If, on the other hand, we pause to deduce the necessary consequences which flow from this prohibition so energetically sustained by the Government of the United States, it would result that, in the concrete case of which we are treating, the Cabinet of Washington would have nothing to object to in the fact of the visit of the *Virginus* by a Spanish cruiser on the high seas, if the insurrection which exists in the island of Cuba were a formal war solemnly declared, while now it finds cause to reclaim and protest with all its might in the case of a measure, executed by the legitimate government of an allied nation, recognized as such, against its rebellious subjects. In this manner, although against the will and the best intentions of the American Government, it would admit of demonstration that the duties which international law imposes on the Cabinet of Washington, supposing belligerency between the Spanish troops and the rebels risen in arms, would be more directly obligatory upon it, and would be more efficacious in their means and results, than those which are demanded, apart from a state of belligerency, by good international relations, by the maintenance of domestic peace, and by the legitimate and justifiable repression of subjects in insurrection against the mother-country.

As you will observe, the indiscreet limitation of the right of visit, apart from other extremely serious inconveniences, would establish an odious privilege against the neutral vessel in time of war and in favor of the private aggressor, conceding to the latter an immunity which the former does not enjoy. The melancholy history of the *Virginus* was but too well known throughout Spanish America, and the recollection of her piratical enterprises was still fresh in the memories of the inhabitants of our Great Antilla. Registered in 1870 in one of the ports of the Union, and authorized thereby to fly the American flag, she subsequently abandoned the United States and entered first into the service of the republic of Venezuela, and afterward into that of the chiefs of the Cuban insurrection, at whose cost she carried, although not always with equal good luck, men, arms, horses, and munitions destined to support the fratricidal struggle which drenches in blood that lovely province. And here we must add, with regret, that the repeated piratical excursions of the *Virginus* were carried into effect without being reached or impeded either by the denunciations and reclamations of the representatives and consular agents of Spain in America, or by the protests of public opinion astounded before the impunity with which were realized attempts of such magnitude against public peace and morality and in violation of the most elementary duties imposed upon states by the sincere maintenance of good relations between friendly powers.

Neither is it needful to recall the attendant circumstances that occurred in her criminal expeditions, in which she displayed the chimerical flag of the republic of Cuba, nor that which took place at Curaçoa, and at Puerto Cabello, nor that which happened at Aspinwall, nor the unscrupulous protection which, through error doubtless as to her true nationality, was afforded to the *Virginus* by the American officials, and especially by Captain Reed of the United States steamer *Kansas*. Purchased finally by the so-called insurgent general, Quesada, she was in an evil hour sent to carry to Cuba the luckless expedition arrested and disembarked at Santiago.

This was the vessel for which the commander of the *Tornado* was watching near the Cuban coast, and which the newspapers and the filibuster sympathizers of New York had saluted with emphatic speeches and with enthusiastic cheers when she left the shores of the Hudson. The course on which the *Virginus* was sailing, her sudden change of course on sighting the corvette *Tornado*, and the precaution of casting overboard during her flight various articles of the cargo, left no room for doubt as to the identity of the filibuster steamer. There was no question, therefore, of a simply suspected vessel, the search of which might have presented more or less probabilities respecting her ownership and the inoffensiveness of her intentions. There was no

possibility of an error which might have resulted in the inconveniences and the unwarranted prejudices of an inutile detention. It was a foregone conclusion, and the result proved it.

After the official declaration made by the Government of the United States, in conformity with the opinion of the learned Attorney-General, in which that worthy magistrate stated that the *Virginus*, at the time of her capture, carried the American flag illegally, it would be idle to pause to examine the question of the flag, already officially decided by the Government of Washington, in view of the numerous testimonies and proofs presented by the minister plenipotentiary of Spain, Señor Polo.

Given this state of things, it is clear that no offense whatever could have been committed against the American flag in the detention and seizure of a vessel which carried it at her mast-head unduly and without right thereto, and in virtue of an illicit and punishable fraud. Nay, more, still less could an injury have been done, by the act of seizure, to the crew and passengers, since they were not protected at that time by any legitimate and recognized flag, and, therefore, application could not be made to them of the legal fiction that the deck of a vessel in free waters constitutes a part of the territory of the nation to which she belongs.

It being proved to the satisfaction of the United States that the *Virginus* was not American, the query is suggested as to what may be the nationality of a ship which carries no legitimate flag and is not in possession of legal documents to accredit her character. All mercantile legislation and naval ordinances deny in general to foreigners the right to acquire merchant-vessels within the territory, and even the right of commanding them, without being subject to certain conditions. So, therefore, the *Virginus* can have no other nationality than that of her owner.

In the preamble to the important document subscribed by the Attorney-General, to which I have already made reference, after citing the declarations of several individuals who affirm that that vessel was the property of the Cuban Quesada, the worthy magistrate adds, textually: "Nothing appears to weaken the force of this testimony, though the witnesses were generally subjected to cross-examination; but, on the contrary, all the circumstances of the case tend to its corroboration." It is, moreover, confirmed by the numerous documents and affidavits presented by our minister in Washington, without any one having a doubt, that the *Virginus* was acquired by the so-styled General Quesada, and probably, also, by several other insurgents, likewise sons of the island of Cuba, who paid for the vessel out of their own resources.

The question, therefore, respecting the ownership of the *Virginus*, which had at first presented itself as the occasion of lengthy and vexatious debates in the diplomatic field, has lost its gravity, and now offers itself to the consideration of the two governments interested under the simple proportions of a question of law.

It would be derogatory to your recognized erudition to remind you of the legal principles by which persons and things found within the territory of an independent and sovereign nation are subject to its jurisdiction wherever found, whether upon the ocean or in foreign dominions, without there existing the least exception to this rule respecting the subjects of the country. Spain, consequently, has not violated any foreign right in capturing on the open seas, by means of one of her naval vessels, a ship of which the ownership belonged to one or more of her subjects, without the party making the seizure incurring any responsibility other than that which may be required of him by his natural chiefs, conformably with the domestic laws of the country.

From what I have thus far brought to your attention, I believe that I have shown:

1st. That in the act of the seizure of the *Virginus*, Spain violated no foreign territory, since she effected the capture in that which is considered common to all nations; that is, on the high seas.

2d. That she has not compromised the free navigation of the seas, since her cruiser set out in search of the *Virginus*, and had no necessity for detaining her or visiting her before the seizure, since the manœuvres of the latter upon sighting the *Tornado*, her change of course, her casting her cargo overboard during her flight, and other circumstances strongly suspicious, confirmed the belief that she was the awaited filibuster vessel.

3d. That Spain has caused no prejudice to maritime commerce, since the *Virginus* was not a vessel dedicated to lawful traffic, but to the illicit and punishable transportation of contraband of war, destined to assist the insurrection in Cuba, and that her ownership could not be legally claimed by a third power.

The examination as to the seizure of the *Virginus* having been submitted to the competent tribunal, the judgment declaring her good prize is still pending the report of the council of state, and, as soon as it receives the approbation of the government, I shall have the honor to acquaint you therewith, in order that you may be pleased to request the appropriate instructions from the Government of the United States with respect to the restoration of the vessel in question, or the payment of her value in case she shall have disappeared, to our representative in Washington, in consequence of the declarations of the American Government with respect to her nationality, to the verdict of the prize-court, and to having fulfilled the object and conditions with which

she was surrendered by the authorities of Cuba to the Government of the United States.

We have now to examine the status, in the eyes of the law, of the persons of different nationalities who were found on board of the *Virginius* when she was captured.

The Government of the United States rejects the qualificative of "pirates" which has been applied to them in official documents by several Spanish functionaries; and you yourself, in your note of the 24th of September, not merely find it erroneous and inexact, but hold it to be absurd. This is not the most opportune moment in which to trouble your attention by burdening this long note with citations and texts from eminent authors, with which I might, perhaps, succeed in proving the contrary, founding my reasoning upon the important modifications introduced by international law on this point. It is true that the older writers, in the first dawnings, so to speak, of science, considered as essential certain circumstances and the concurrence of determinate acts to qualify as piracy the offenses consummated on the seas, and which constituted the dividing-line between the corsair and the pirate. One of those circumstances was the most characteristic, the *animus furandi*, proved in the crew of the vessel, and there were others which it is not necessary to recall. According to modern international law, which is less casuistical, no doubt, it is sufficient to accuse a ship of the crime of piracy that a purpose be proven on the part of her officers and crew to destroy the shipping of foreign nations which are not at war, to cast their cargo overboard or sink it, and to devastate the coasts of a country, not *animus lucrandi*, or with intent to profit by such damage, but to satisfy the hatred or the vengeance of the aggressor, or with other equally criminal purpose. Such is the point of view of modern writers, even among the most uncompromising paladins of the freedom of the seas, such as Baron Cussy, Pinheiro, Bluntschli, Ortolan, and others. So, therefore, we may today qualify as piracy any violence whatever committed on the sea, or immediately adjacent thereto, by persons who do not represent any known state or nation, it being sufficient in this relation that the sea be the theater of the crime for international law to consider its authors punishable at the hands of any independent state.

The expedition of Narciso Lopez in 1850, which is well known to all, and which in many respects has great analogy to that of the *Virginius*, merited, jointly with the reprobation of all sober-minded men, the qualification of being a declared act of piracy; and in the English Parliament Lord Brougham, inquiring of the government if the fact announced by the press was true, expressed the desire that condign punishment should be imposed upon those execrable pirates, because, added the honorable lord, *these persons are pirates*. In the same opinion Lord Aberdeen concurred in the House of Lords and Mr. Disraeli in the House of Commons.

In this way also it was regarded, in the light assuredly of modern doctrine, by a most worthy and learned authority, to whom no one, and, least of all, the Government of the United States, can take exception—the honorable Mr. Seward, formerly Secretary of State. This estimable officer, in the first two years of the secessionist rebellion which had broken out in the States of the American Union, addressed various official dispatches to the maritime powers, in which he set forth in different forms, and maintained with great store of arguments, that the confederate cruisers were *pirates*, and should be treated as such by the governments of Europe, a theory which merited, besides, the approbation of the American Congress. The secessionists having been recognized as belligerents by different governments which had not taken into consideration the character of pirates attributed to them by the theories of Mr. Seward, the latter replied, protesting against the recognition, and declaring it to be an act contrary to good relations of friendship, and as a violation of international laws. It is not to be supposed, whatever may have been the sentiments and the duties which impelled the then Secretary of State to combat the secessionist rebels, that he attributed to them the *animus furandi*, or the exclusive intent of *pillage and plunder*, which, conformably with the ancient doctrine, are essential elements of the crime of piracy.

I would have wished to succeed in demonstrating to you that the fundamental motive which the Spanish government has had to consider the passengers and crew of the *Virginius* as pirates is not so very absurd nor so very unreasonable; and that, supposing that in this it had fallen into error, it would have been induced thereto by the weighty opinions of eminent writers and authorities, illustrious by their learning and by the elevated position reached by them in powerful nations, wherein welcome and tribute are paid to ideas of advancement and progress in social and political science.

The terrible consequences which the rash and criminal expedition of the *Virginius* has had for some of the unhappy persons who were on board—consequences which the executive power could not avert, being unfortunately received in Santiago de Cuba too late by reason of the interruption of the telegraph-lines by the insurgents—could not do less than move the generous sentiments of the Spanish government, so painfully situated between the strict fulfillment of the laws in special circumstances, and the impulses of humanity and of commiseration common to all honorable men, but which should be violently stifled before the imperious voice of duty and the defense of the high interests confided to the public powers.

That duty fulfilled, sentiments of humanity may still recover all their force, and endeavor to seek, not a remedy for an irreparable punishment, but alleviation and consolation for those persons who, without having had part in the commission of the crime, participate fatally in the terrible consequences of the expiation imposed by law.

The Spanish government, which has very recently proved the sincerity with which it professes these noble sentiments, by conceding a large pecuniary relief to the families of the English subjects captured in the *Virginus* and executed at Santiago, would fail in a duty of justice if it were not prepared to act in the same manner and in the same proportion with respect to the families of the American citizens who, being captured on the vessel in question, were afterward executed. The indications which, upon this point, I had the honor to make to you in my note of the 14th of August, are a proof that, in conceding that sum to the government of Her Britannic Majesty, that of Spain could not have had the intention of establishing an unjustified preference, nor even a difference, between two nations alike friendly to Spain and with equal claim to her consideration and sympathies. You may, therefore, be pleased to indicate to me your conformity on this point, in order to proceed to the payment of the corresponding sum in the same terms as those accepted by the British government, and which terms are contained in the two inclosures I send to you herewith.

It remains to me to answer, Mr. Minister, the last note which, under date of the 30th ultimo, you have been pleased to address me, and in which you express to me the desire of the Government of Washington to see the fulfillment of the article of the protocol of November 29, 1873.

* * * * *

I have made answer to the principal questions which have arisen in the matter of the *Virginus*, and set forth the point of view of the Spanish government, in the confidence that the cabinet of Washington will examine our arguments through the prism of conciliation and of the friendly sentiments which have inspired them, in order that a direct settlement may be arrived at between the two governments. But if, contrary to the hopes of the Spanish government, its desires are not realized, and on the part of that which you so worthily represent in this capital it be deemed that the case be not reached for regarding this affair as terminated, notwithstanding the declarations I have had the honor to make, all of which are favorable to the concord and better understanding of the two countries, then, complying with that stipulated by both nations in the before-cited protocol of the 29th of November of last year, we are prepared to submit the integral settlement of our differences with regard to the *Virginus* to the arbitration of the powers whose designation respectively corresponds to the Spanish government and to the Government of the United States.

The Spanish government believes it has demonstrated, through my channel, in the present note, the sincerity of its sentiments, and its firm purpose to maintain and draw closer the ties of friendship which bind Spain to the United States. The same sincerity causes it to appeal to the good faith of the United States, hoping that, both with reference to the present question and to the questions which may arise in the future, it will be borne in mind that, doubtless against the will of the Government of Washington, almost all the expeditions launched against the island of Cuba have set out from American ports, and that in the principal cities of the Union there exists a permanent conspiracy against the integrity of our territory, which makes public boast, in the press and in meetings, of its criminal intentions. It is not my object to enter on a discussion as to how far the efficacy of the domestic laws of that country reaches in preventing these aggressions against a friendly people. If I permit myself to make this observation, which you will appreciate at its just value, it is solely in order to fix the situation, in which we are placed with respect to the United States, and to explain thereby the different conflicts which have occurred between the two nations. To the termination of these differences, once for all, our wishes are directed, and we trust that the same desires will animate the American Government, even though it only consults its commercial interests, which suffer so much by the prolongation of an insensate rebellion, which, notwithstanding the warmth given to it by its sympathizers in foreign countries, has shown its impotency for triumph, being fecund only in evils, perturbations, and ruin for the mother country.

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

AUGUSTO ULLOA.

The MINISTER PLENIPOTENTIARY
Of the United States.

No. 582.

Mr. Fish to Mr. Cushing.

No. 108.]

DEPARTMENT OF STATE,
Washington, December 30, 1874.

SIR: Your dispatch No. 177, with which was inclosed a copy of the elaborate note of Mr. Ulloa on the question of the Virginius, in reply to your communications, and of his private note forwarded at the same time, has been received.

I have read the note of Mr. Ulloa with interest and careful attention.

While I cannot agree with many of his assumptions and arguments, I must express satisfaction with its general tone and tendency, and with its temper and conciliatory expressions.

In this view, it is in marked contrast with some of the papers which have in the past emanated from the officials of Spain.

So far as the questions in difference are concerned, the general correspondence of this Department with Admiral Polo, and of yourself with the minister of state, fully present the views of this Government. Further argument would amount to a repetition.

In fact, Mr. Ulloa's note is to be taken as an answer to your communications, so as to complete the record, rather than as a paper presenting matter for reply.

I must, however, express my regret that Mr. Ulloa should have deemed it necessary, even if in deference to public feeling in Spain, to refer to the executions at Santiago as "the strict fulfillment of the laws in special circumstances," or as called for by "the imperious voice of duty," or to take from the moral effect of the indemnity proposed by characterizing the reparation as actuated by sentiments of pity consequent upon a "duty fulfilled," and as caused by a desire to alleviate the misfortunes of those who suffer through punishment imposed on others by the law.

I could have hoped that a review of all the facts attending the executions, and a consideration at this late day of those barbarous and cruel acts, happily without parallel, would have deterred the accomplished minister of state from the use of any expression, and from allowing himself to be committed to any view, tending to justify those executions.

While such expressions, accompanying an offer of settlement, may not prevent the acceptance of the offer, this Government would fail in its duty did it not signify its dissent from expressions tending to justify or apologize for these acts; and this may be done, as suggested by you, and approved in my telegram of December 11, by a counter-protest or a joint memorandum, precluding any inferences adverse to the position of this Government in regard to the acts complained of.

Without considering what supposed necessity may demand such an apparent justification, I cannot but believe that had Spain joined the civilized world in a denunciation of these executions, and had she long since visited prompt and effective punishment on the guilty parties, the moral support she would have gained thereby would have largely exceeded any corresponding detriment.

The instructions forwarded you by telegraph, and the absence of any observations from you upon the note in question, which, from your dispatch, may shortly be expected, make further reference thereto at this time unnecessary.

I am, &c.,

HAMILTON FISH.

No. 583.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *February 10, 1875.*

FISH, *Secretary of State, Washington :*

Interview to-day with Castro.

* * * * *

Satisfactory sum of indemnity free from condition of accountability required of England to be stipulated by immediate further interchange of officious notes.

CUSHING.

No. 584.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *February 16, 1875.*

FISH, *Secretary of State, Washington :*

Negotiation rests on my note of eleventh to Castro, mailed same day. His reply sent to-day.

* * * * *

CUSHING.

No. 585.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *February 16, 1875.*

FISH, *Secretary of State, Washington :*

Diplomatic convention by interchange of notes completed to-day, to the following effect, namely:

First. Spain allows eighty thousand dollars in full of all indemnity.

Second. Allowance unconditional.

Third. All question of the hulk laid aside.

Fourth. Full assertion on my part of illegality of the acts complained of.

Fifth. Distribution to be made by the United States in their discretion.

Sixth. No posterior accountability as was required of England.

* * * * *

CUSHING.

No. 586.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *February 21, 1875.*FISH, *Secretary of State, Washington :*

Important interview with Castro to-day, in which terms of final written agreement were practically settled, on bases, first, that indemnification is co-extensive with claims preferred; second, that no issue is raised as to the persons who may receive it, whether for executions or a detention; third, that time, place, and manner of payment shall be satisfactory; and fourth, that distribution shall be made by the President, in his discretion. I hope to cable text of agreement by Tuesday.

CUSHING.

No. 587.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *February 21, 1875.*FISH, *Secretary of State, Washington :*

My note to Castro is as follows:

MADRID, *February 11.*

[Confidential.]

Mr. Minister :

MY DEAR SIR: I have the honor herewith, in respectful accordance with a suggestion made by your excellency during our conversation of yesterday, to submit my views regarding the precise sum of indemnity proper to be allowed to the United States in the matter of the Virginius. Your excellency will observe in reading the note of Mr. Ulloa to Mr. Macdonell, of the 6th of August, that the sum paid to Great Britain in this behalf purports to be an advance or partial payment, leaving the total amount to be fixed by future negotiation.

Now, as your excellency has already, induced by laudable desire of concord, agreed that the sum allowed to the United States shall be unconditional, I propose, in the same desire of concord, that it shall be definitive and without having the door remain open for further reclamation in the premises, which proposal cannot but be acceptable to the Spanish government. Moreover, the arrangement made with Great Britain comprehended another condition which, as I think, it is for the interest both of Spain and the United States to premit; that is, the engagement of Great Britain to account to Spain for the distribution of the sum in the first instance accorded. It seems to me that such a condition might lead to future causes of dispute which it would be better for our respective governments to prevent and avoid.

This point was much discussed by the tribunal of arbitration at Geneva, with the judicious conclusion that it was most advisable to decree a specific sum in gross to be paid by Great Britain, committing to the United States the national duty and the national responsibility of the equitable distribution of such sum among the several claimants without any accounting therefor to Great Britain. I propose, therefore, that the sum to be paid in the present case be a final one, and intrusted, in so far as regards the distribution thereof, to the discretion of the United States.

Our claim was based on the sum paid to Great Britain for each ordinary white man as a starting-point, but with exclusion of the lesser sum allowed for colored youths, and it proceeded on the calculation of an increased rate for officers, that increase not arbitrary, but measured by the relative rate of wages of officers and men in the steam-service.

In this respect, also, my judgment was guided by experience gained in the arbitral proceedings at Geneva.

The necessary result was a larger sum total than that offered to Great Britain. First, because no depreciatory discrimination for colored persons entered into my calculations; secondly, because it embraced a larger number of persons; and thirdly, a greater proportion of officers, including the captain.

In view of all which, I propose, as the lowest amount which will satisfy my Government, the sum of \$80,000, to cover all claims of the United States for pecuniary indemnity, in the matter, whatever they may be; and still more to facilitate the conclusion of the present provisional arrangement, I propose to leave the time of payment to be fixed in our official agreement, feeling sure, from what I have had the gratification of seeing of the spirit of justice, frankness, and good faith which animates your excellency, that we shall readily agree on this point. since you will not propose any delay unworthy of Spain or unacceptable to the United States. If your excellency shall be pleased to signify assent to these views, it will be my most agreeable duty to telegraph home that this painful controversy, transmitted to you by previous administrations, has, by our joint efforts, been at length concluded in a manner honorable to both nations and eminently conducive to a permanent good understanding between the respective governments.

I avail, &c.

His note to me reads thus :

MINISTRY OF STATE,
The Palace, February 15.

[Confidential.]

MY DEAR SIR: In due time I received your excellency's letter of the 11th instant, which, to my deep regret, manifold and urgent occupations have not permitted me to answer sooner, as I should have desired, in order to respond duly to the friendly solicitude displayed by your excellency for the speedy and definitive settlement of the important affair which occupies us. I have, in compensation, the honor to be enabled to-day to inform your excellency, in the name of the government of His Majesty, of the full acceptance of the proposition of the Government of the United States, which fixes at \$80,000 the total of the sum to be paid by that of Spain for distribution among the families of the Americans shot in consequence of the capture of the *Virginus*.

In communicating to your excellency this conformity, I must add that, in treating of a Government so worthy of consideration as that of Washington; and of persons so worthy of respect as those who compose it, whatever the form in which this amicable settlement between the two cabinets had been effected, it would never have been my intention to propose that the Government of your excellency should give account of the manner in which the sum agreed upon was distributed, and much less having intervened so efficaciously in these negotiations one who, like your excellency, merits by his distinguished personal qualities the highest esteem of the government of His Majesty. This distribution, therefore, appertains exclusively to the Government of the United States, inspired by the upright and notable sentiments which animate it. It remains to me now to await with real impatience until, the representation of your excellency near His Majesty the King being regularized, we can in common accord formalize this agreement, due principally to the spirit of the friendly sentiments which exist between the two governments, and of which your excellency has been a faithful and most worthy interpreter in the course of the negotiations.

I am, sir, &c.

No. 588.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *February 24, 1875.*

Have submitted to President your note of 11th, and Castro's of 15th, as received by cable. He approves of agreement as therein proposed. You will telegraph fact and date of signature, and, so soon as credentials are received and presented, will sign final agreement, and immediately telegraph the fact.

FISH.

No. 589.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *March 3, 1875.*

You are authorized to present credentials, if immediately thereupon final agreement will be signed.

* * * * *

FISH.

No. 590.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *March 9, 1875.*

Official agreement has been signed, substantially as telegraphed on the 2d. Credentials to be presented on the 10th.

CUSHING.

No. 591.

Mr. Cushing to Mr. Fish.

No. 312.]

LEGATION OF THE UNITED STATES,
Madrid, March 11, 1875. (Received March 29.)

SIR: I inclose herewith an original of the agreement as signed on the 5th instant, for the settlement of the indemnity reclamations in the matter of the "Virginus," with the ratification thereof, as signed the day after my official presentation to the King.

* * * * *

I am, &c., &c.,

C. CUSHING.

[Inclure In No 312.]

AGREEMENT.

In consideration of the reasons set forth and the declarations made reciprocally in various conferences to that effect had between his excellency Mr. Caleb Cushing, representative of the United States, and his excellency D. Alejandro Castro, minister of state, as also of the notes which have passed between them, and, desiring at the same time to put an end, by means of an equitable and friendly accord, to the reclamations presented by the Government of the United States, in consequence of what occurred at Santiago de Cuba, in regard to the persons of the officers, crew, and passengers of the steamer "Virginus," it being understood that from these reclamations are to be excluded, in so far as respects the ship's company, all individuals indemnified as British subjects, and, with respect to passengers, including only six American citizens—

They have agreed:

First. The Spanish government engages to deliver to that of the United States the

sum of eighty thousand dollars in coin, or four hundred thousand pesetas, for the purpose of relief of the families or persons of the ship's company, and passengers aforesaid, of the "Virginus."

Second. The Government of the United States engages to accept the sum mentioned in satisfaction of reclamations of any sort, which, in the sense of personal indemnification in this behalf, might hereafter be advanced against the Spanish government.

Third. When the sum referred to in Article one, shall have been received, the President of the United States will proceed to distribute the same among the families, or the parties interested, in the form and manner which he may judge most equitable, without being obliged to give account of this distribution to the Spanish government.

Fourth. The payment of the eighty thousand dollars, or four hundred thousand pesetas, shall be effected by the Spanish government, at Madrid, in specie, and in three periods of two months each: Thirty thousand dollars, or one hundred and fifty thousand pesetas, for each of the first two installments, and twenty thousand dollars, or one hundred thousand pesetas, in the last.

Fifth. The present agreement will be ratified by both the undersigned, so soon as his excellency the representative of the United States shall have presented credential-letters which accredit him as minister plenipotentiary near His Majesty the King of Spain.

Done at Madrid, this twenty-seventh day of February, in the year one thousand eight hundred and seventy-five.

C. CUSHING .
ALEJANDRO CASTRO.

RATIFICATION OF AGREEMENT.

His excellency Mister Caleb Cushing, envoy extraordinary and minister plenipotentiary of the United States of America, and his excellency Don Alejandro Castro, minister of state of His Catholic Majesty, in fulfillment of the stipulation contained in the fifth article of the agreement provisionally signed by their excellencies aforesaid in this city, on the twenty-seventh of February last past, declared :

That his excellency Mister Caleb Cushing having yesterday presented the letter of His Excellency the President, which accredits him as the envoy extraordinary and minister plenipotentiary of the said States near His Majesty the King of Spain, they ratify, by the present document, all that is stipulated in each one of the five articles of which the above-mentioned agreement is composed.

In witness whereof, both the undersigned have signed their names and set their seals to the present declaration.

Madrid, the eleventh of March, of the year one thousand eight hundred and seventy-five.

The minister plenipotentiary of the United States of America,
[SEAL.]

C. CUSHING.

The minister of state of His Catholic Majesty,
[SEAL.]

ALEJANDRO CASTRO.

No. 592.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *March 12, 1875.*

Credentials presented the 10th; ratification signed the 11th, and sent the same day by express.

* * * * *

CUSHING.

No. 593.

Mr. Fish to Mr. Cushing.

No. 152.]

DEPARTMENT OF STATE,
Washington, April 6, 1875.

SIR: Your 312, containing the original of the agreement entered into between yourself and the minister of state as to the indemnity in the matter of the *Virginus*, dated February 27, and the ratification thereof, bearing date the 11th ultimo, has been received and laid before the President.

I am instructed to convey to you the President's approval of your proceedings, and his appreciation of the tact, ability, and judgment through which you have brought this tedious negotiation to a successful termination. In this approval of your proceedings I heartily join.

It may fairly be considered a real advance in diplomatic intercourse when an adjustment of such a dangerous and perplexing question, with the attendant feeling and the difficulties which have surrounded it, can be effected by as frank and open declarations on the one side, and admissions on the other, as are reported to the Department in your No. 238 to have taken place between yourself and Mr. Castro. * * *

I am, &c.,

HAMILTON FISH.

No. 594.

Mr. Cushing to Mr. Fish.

No. 349.]

LEGATION OF THE UNITED STATES,
Madrid, April 16, 1875. (Received May 7.)

SIR: I inclose herewith annexed copy and translation of a note of this date from the minister of state, informing me of the determination of the Spanish government to anticipate payment of the indemnity-money in the matter of the "*Virginus*" by the immediate delivery of the whole of the first installment and of one-half of the second.

I shall to-morrow call at the treasury department, and, on receiving the money, remit the same immediately to Messrs. Morton, Rose & Co., as instructed by your telegram of the 7th instant, on the best terms attainable at Madrid.

* * * * *

I have, &c.,

C. CUSHING.

[Inclosure 1 in No. 349.]

Mr. Castro to Mr. Cushing.

[Translation.]

MINISTRY OF STATE,
The Palace, April 16, 1875. (Received April 16.)

YOUR EXCELLENCY: I fulfill with pleasure the duty of announcing to your excellency that, according to information I have received from the minister of finance, there is

now current for collection and at your disposal a treasury order to the value of 225,000 pesetas, the amount of the first installment and half of the second of the indemnification in the "Vrginius" matter, which sum will be paid as soon as your excellency is pleased to present yourself to receive it.

The Spanish government, in anticipating a part of the second installment of the said indemnification, desires that the Government of the United States may see therein a proof of the consideration which is its due and a mark of deference to its representative at this court for the worthy and noble intervention he has had in this matter.

I improve this occasion to repeat to your excellency the assurance of my most distinguished consideration.

A. CASTRO.

The MINISTER PLENIPOTENTIARY of the United States.

[Inclosure 2 in No. 349.]

Mr. Cushing to Mr. Castro.

LEGATION OF THE UNITED STATES,
Madrid, April 16, 1875.

SIR: I have received with lively satisfaction your excellency's note of this date, announcing the intention of the government of His Majesty to anticipate payment of the indemnity stipulated by agreement of the 11th of March in the matter of the "Virginus," and to that end inviting me to receive from the minister of hacienda a treasury order for the sum of 225,000 pesetas.

It does not become me to attribute this act in any degree to the personal considerations kindly suggested by your excellency. I regard it only in the light of a testimony of fact to the sincerity of the assurances given by His Majesty on the occasion of my official reception of his desire to maintain and strengthen the relations of good-will between our respective governments, in response to the similar assurances given by the President of the United States. In this sense, it will be my duty and my pleasure to transmit your note to my Government.

I embrace the present opportunity of repeating to your excellency the declaration of my most distinguished consideration.

C. CUSHING.

His Excellency THE MINISTER OF STATE.

No. 595.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *April 17, 1875.*

Payments anticipated. Forty-five thousand dollars to be delivered to-day.

* * * * *

CUSHING.

No. 596.

Mr. Cushing to Mr. Fish.

No. 356.]

LEGATION OF THE UNITED STATES,
Marid, April 21, 1875. (Received May 11.)

SIR: In pursuance of the note addressed to me by the minister of state in the afternoon of Friday the 16th instant, of which copy is an-

nexed to my No. 349, I called on the minister of Hacienda the next day, Saturday the 17th, and he immediately issued direction for the delivery of an order on the Bank of Spain for the sum of 225,000 pesetas, (\$45,000,) which I received late on the same day, and received for according to copy and translation annexed.

* * * * *

I have the honor, &c.,

C. CUSHING.

[Inclosure 1 in No. 356.]

Receipt and treasury warrant for 225,000 pesetas paid to Mr. Cushing April 17, 1875.

[Translation.]

General direction of the treasury—Warrant office—Warrant of payment No. 203—No 1 of special registry—Operations of the treasury—First part of the account—General head, "Anticipated payments and funds advanced with obligation of repayment"—Special head "Ministry of state."

The general director of the treasury to the central treasurer:

Be pleased to note in account and satisfy to his excellency the minister plenipotentiary of the United States of America, Mr. Caleb Cushing, in the kinds of money expressed in the margin, the sum of two hundred and twenty-five thousand pesetas, on account of the four hundred thousand to which amounts the indemnification agreed upon for the relief of the families of the ship's company and passengers of the steamer "Virginus," captured in the island of Cuba in conformity with the order copied on the back hereof; bearing in mind that in order that the above-mentioned sum may be paid to him in account, the central accountant must register and note this warrant "before its payment be effected," and that the receipt must be afterward signed by the legal personality in whose favor it is issued.

Madrid, April 17, 1875.

JUAN LOREN.

Classification of form of payment.

Gold, silver, copper, bank-notes; in all two hundred and twenty thousand pesetas. Registered the 17th day of April, 1875, in which the payment was effected.

The central accountant,

FERNANDO FERNANDEZ.

Entered as No. 1247 of the diary of the accountant's office. Entered as No. — of the diary of the treasurer's office.

Received the aforesaid sum in the kinds of money specified in the margin.

The party in interest.

C. CUSHING,

Minister of the United States of America.

Direction of the public treasury and general warrant office for payments from the state.

By royal order of the 7th instant, in accord with the council of ministers, this direction-general is authorized, under the item of "Advances by the treasury," to the ministry of state, to pay to the Government of the United States of America the sum of four hundred thousand pesetas, amount of the indemnification agreed upon for the relief of the families of the ship's company and passengers of the steamer "Virginus" captured in the island of Cuba; in view thereof, this direction has ordered that on account of the said sum, and under the item mentioned, there be forthwith paid by the central treasury office to the minister plenipotentiary of the United States at this court two hundred and twenty-five thousand pesetas, of the execution of which in this manner will be pleased to give advice. May God guard you many years.

Madrid, April 15, 1875.

PY. JUAN LOREN.

To the central accountant.

It is a copy. [Rubricated.]

No. 597.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *April 22, 1875.*

Was anticipation referred to in telegram seventeenth realized?
FISH.

No. 598.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *April 23, 1875.*

Two hundred and twenty-five thousand pesetas received and remitted.
CUSHING.

No. 599.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *April 23, 1875.*

Anticipated payment taken as evidence of friendly dispositions, and
strengthens hope of speedy adjustment of all outstanding questions.
FISH.

No. 600.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, *May 5, 1875.*

I have obtained payment to-day of balance of indemnity money,
175,000 pesetas, which will be remitted conformably to existing instruc-
tions.

CUSHING.

No. 601.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, *May 6, 1875.*

You will express to Spanish government President's appreciation of
the anticipated payments, and his satisfaction at the adjustment of this
question.

FISH, *Secretary.*

No. 602.

Mr. Fish to Mr. Cushing.

No. 172.]

DEPARTMENT OF STATE,
Washington May 8, 1875.

SIR: Referring to your telegrams, and to your No. 349, informing me that the Spanish government had anticipated the payment of the Virginus indemnity to the amount of 225,000 pesetas, and to your telegram of the 5th instant, stating that you had received 175,000 pesetas, being the entire amount of the indemnity remaining unpaid, I have to congratulate you upon the speedy and successful termination of this negotiation.

I have already expressed to you the appreciation entertained by the President and this Department of the tact and sagacity displayed by you in reaching an adjustment, and I am instructed to express the satisfaction of the President on learning of this final payment and of the disposition of this question.

You were instructed by my telegram of the 6th instant to express to the government of Spain the appreciation of the President at the course which that government had adopted, in not only fulfilling the engagement which had been entered into, but in hastening to remove the questions by an anticipation of payment.

I am, &c.,

HAMILTON FISH.

No. 603.

Mr. Cushing to Mr. Fish.

No. 382.]

LEGATION OF THE UNITED STATES,
Madrid, May 13, 1875. (Received June 1.)

SIR: I have the satisfaction to report that the final payment on account of the "Virginus," received by me on the 5th, as previously reported, has this day been remitted by me to London, by eight-day bills of Messrs. Bayo & Co. on Messrs. Murrieta & Co., and that thus the Spanish government, without availing itself of the six months' time stipulated in the agreement of March 11, has voluntarily discharged its entire obligation in two months, for the purpose of showing its good faith and its good-will toward the United States.

I have, &c.,

C. CUSHING.

SWEDEN AND NORWAY.

No. 604.

Mr. Andrews to Mr. Fish.

No. 252.]

LEGATION OF THE UNITED STATES,
Stockholm, January 14, 1875. (Received February 19.)

SIR: High rates of fire-insurance in a city are of course a serious obstacle to business enterprise. Where these are united with high taxes, as is the case in many of the new cities of the United States, the two together form almost a prohibition of manufacturing industry.

Insurance in Stockholm is remarkably low. Assuming that a brick house in this city has been built in accordance with the common public regulations in respect to foundation, thickness of walls, &c., it must yet have three requisites in order to bring it into what the insurance companies call a first-class house. These are stone, brick, or iron stairs; an iron door for the entrance to the attic, and the floor of the attic of brick or stone. In other words, the stairway, entrance to the attic, and the attic-floor must be fire-proof. Insurance per year on such buildings is at the rate of one crown for a thousand crowns' value—\$1 per \$1,000 value—or, what is the same, one mill on a dollar. A second-class house is one in which the attic-floor is not completely fire-proof, and where the stairs to it are of wood. On such a house the rate of insurance is one and a quarter mills per dollar. If the house has main walls of brick, but the interior or room walls are of wood, it is considered as third-class, and the insurance is one and a half mills per dollar. If the house has a wooden frame, but is bricked between the timbers, and the walls are plastered outside, it is in the fourth-class, and insurance on it is three mills per dollar. A house of the fifth class is one which is built wholly of wood, and insurance upon such varies from four to eight mills per dollar of value.

What has principally contributed to these cheap rates of insurance is the enforcement of strict building-regulations. Stockholm was founded in 1187. During the seven centuries of her existence, she has suffered repeatedly from conflagrations; and, as might be expected, has by this time learned, what all cities ought to know, the wisdom of interposing public authority to secure the construction of buildings sufficiently fire-proof. An act embracing eighty-five sections of "building-regulations" for the city of Stockholm has been in force for some years. Indeed, the essential parts of the regulations must have been in force a long time, for there are very many brick buildings here in excellent state of preservation which are upward of two centuries old. By these regulations, all buildings are required to display in their exterior a neatness and style corresponding to the part of the city in which they are erected, and so as to conduce to the beautifying of the city. As a general rule, they must be constructed of brick, stone, or iron. Wooden buildings are allowed to be put up only in the outer parts of the city. Every dwelling must have its own independent cellar-walls. The front and rear of "free-standing" walls must, in a house of more than two stories, have a thickness in the lower story of at least two feet, and in the other stories, as also everywhere in houses of less than two stories, a thickness of at least one foot and five inches. Every house must, on its side joining upon

another house, have its own "fire-walls," which wall, where the house does not exceed two stories, must have a thickness of at least one foot, and where there are more than two stories, a thickness of one foot and five inches to the second story, and above that a thickness of one foot.

The walls are usually solid, and on that account it must be admitted that, in a sanitary point of view, houses so constructed are less healthy than well-built wooden houses. The interior or room walls are generally of brick. The stairs must be of iron or stone, and arched with masonry through each story. The Swedish limestone is readily quarried into long slabs and is excellently adapted for stairs, the slabs being first planed and grooved by machinery to prevent slipping. Limestone is also commonly used for entry-floors. There is but one stairway to a house. It is usually four or five feet wide, and is, of course, within the main walls of the building. The different flights are directly over each other. The sides of the passage are plastered, and generally neatly grained in imitation of marble. The stairs being used in common by about as many families as there are stories to the house, it is seldom that they are carpeted, and everything about them has a fire-proof appearance. There is but one entrance to the attic-story, and the door to that must be of iron. The attic may be divided into several rooms, but the whole floor must be of brick or stone. The roof cannot be higher than half of the breadth of the house, and must be covered with tiles or metallic plate. The chimneys must be of brick; their walls must be at least five inches thick; and, where they pierce the roof, the space all around for at least five inches in width must be filled in with iron or mortar, none of the wood-work of the roof being allowed to come nearer than five inches to the chimneys. The Swedish earthen stoves are permanent fixtures in the house. Specimens of these stoves will be seen at the Philadelphia Exhibition. After more than five years' experience with them, I am satisfied that their introduction into the colder parts of the United States would be productive of health, comfort, and economy.

It is the universal practice to plaster the walls of all buildings on the outside and to give them a yellowish-gray or dark cream color. None are permitted to be purely white. Much architectural taste is displayed in the plastering, the fronts frequently being divided off in imitation of sandstone blocks, with striking cornices above the windows. In order that the moisture may escape from the walls, the outside plastering is not allowed to be done till the summer of the year next following their erection. The Riksdag, at its last session, passed an act of fifty sections prescribing *regulations* for the erection of buildings in *all of the cities and larger villages* of the kingdom. It went into effect the first of this month, and it is considered a very important and useful law. By this act, every city and trading village must choose a building committee of three or five members, who are to hold for four years. A plan and map, on a scale of one inch to two hundred feet, must be prepared for each city. Particular care must be taken in respect to drainage, and the regulations of the state board of health be complied with in regard to out-houses. By this law, every street in new cities must have a breadth of at least 60 feet, measuring from the walls of the buildings; and in old cities, no new street can be laid out with a less breadth than forty feet. No building can be erected within fifteen feet of a neighboring line, unless constructed of bricks or other equally fire-proof material. Dwellings may not be built with more than five stories. Where the attic is finished into dwelling-rooms or has fire-places, such attic is to be counted as a story.

No building can be higher than the breadth of the street on which it stands and five feet in addition. Houses or other buildings when built on the corners of streets must have their corners cut off eight feet in breadth, and with equal angles. This regulation has obtained in Stockholm for a considerable time, and while it adds to the general architectural elegance of the city, it also helps to prevent collisions of vehicles. Rooms in dwellings are not to be less than nine feet in height. Cellars must be so walled as to prevent, if possible, the admission of water. The floor of the lowest or basement living-room must be at least a foot higher than the ground or street. In all public buildings doors are to open outwards. These, perhaps, are sufficient citations to show the scope of the law. It does not conflict with what has before been quoted from the Stockholm regulations in regard to thickness of walls. The penalty for violating any of the provisions of the law in question or of any of the Stockholm building-regulations may not exceed five hundred crowns in money, but the offender is liable for the damages caused by a non-compliance with them, and may also be compelled to tear down what has been improperly erected. There are many things in the domestic arts, in the implements of agriculture, in carriages, in the gear of beasts of burden, and the like, where the Swedes are much behind the Americans; but in building they seem, like the ancient Romans, to have an eye to what is substantial and practical. There are no projecting steps, porches, nor stylish entrances to private houses. The entrance from the street is through a large double door on a level with the sidewalk. This passage-way is generally wide and high enough to admit a two-horse carriage. It is arched under the building itself, and lighted both from the street and interior yard. After passing in at this door one has to take from six to a dozen steps before reaching the stairway to the apartments. The street-door is kept fastened and tended by a person especially employed for the purpose and who occupies a room overlooking it. This is a great convenience to visitors who may only wish to leave a message for some of the different apartments, and also to the occupants of the apartments in being freed from those intrusive visits of professional beggars and others, to which a private house is often subjected in a large city. If anything further were required to show that the cheap rates of insurance are mainly owing to strict building-regulations—in other words, to preventive means—it would be found in the fact that the fire-department in Stockholm is extremely inefficient and behind the times. It is so acknowledged by all parties. Certainly there is an abundance of water, which, of its own force, can be thrown as high as the top of most of the buildings. There is no telegraphic fire-alarm, but alarms night or day are given by watchmen stationed in the principal church towers. There are two watchmen together in a tower, where a comfortable room is provided for them. If a fire is discovered, a watchman strikes upon the bell the number of the ward in which it is. The pumps, or, if they can be so called, the engines, are all operated by hand. There are about fifty of these. They are served, in accordance with a very old custom, by the laborers at certain designated mechanical or manufacturing shops in various parts of the city, and the address of which may be found under the head of fire-system in the city directory. Those who are first at a fire with an engine receive each a few crowns as compensation. None others are paid. In former years, when mechanic and other trades had their guilds and were privileged, this sort of service was compulsory, but now it is entirely voluntary except as to one trade, namely, the wine-bottlers. A few of the engines, however, are required to be served by garrison soldiers. It is in contemplation to organize a

new fire-system; to have a corps of one hundred and fifty men to be paid and held exclusively for the fire-service, with reserves from among the garrison soldiers and the citizens; to introduce telegraphic fire-alarms, and to have engines operated by steam. Norway has had for some time in her principal towns a modern fire-system, with corps of men and steam-engines exclusively employed in the service.

I have &c.,

C. C. ANDREWS.

No. 605.

Mr. Andrews to Mr. Fish.

No. 265.]

LEGATION OF THE UNITED STATES,
Stockholm, June 13, 1875. (Received July 8.)

SIR: For a period back it has been customary for the university students of Sweden, Norway, and Denmark to hold a social gathering every few years, in one or the other of the capitals of their countries. At these gatherings, banquets are given, speeches are made, poems read, and songs sung; for the Scandinavian students make singing instead of rowing a specialty. They attract national attention, and serve to keep alive and to increase a fraternal feeling among the Scandinavian people. A gathering of this sort, beginning the first instant and lasting ten days—during which several excursions were made to places of interest in Sweden—has just occurred at Stockholm, and what was chiefly remarkable about it was the presence of a delegation of eighty-five Finnish students from the University of Helsingfors in Finland. The number of students present from Norway, Denmark, and the University of Lund, in the south part of Sweden, was five hundred. Of course there was a large number present from Sweden's principal university of Upsala. In honor of the occasion Stockholm gave an entertainment at Hasselbaken, at which there were two thousand guests. One of the most distinguished of Swedish statesmen, Mr. Bergstrom, ex-minister of the interior, delivered the welcoming address.

Finland was united with Sweden during six centuries. Much of its literature is Swedish. It has the same poetic and solemn characteristics of nature as Sweden, the dark forest and lake, the long, wintry night, and the midnight sun of summer.

The University of Helsingfors was founded under Swedish rule, and when Sweden was the great Protestant power. The Fins have stood shoulder to shoulder with the Swedes in many memorable battles; and it was natural that the presence on this occasion of a large delegation of their students should awaken, as it did, deep enthusiasm and emotion.

Politicians may get up arm-in-arm conventions; sovereigns may exchange visits and salute each other with the warmest cordiality; yet it may all signify little. But when the youth of different states or sections fraternize we may be sure that their people are friendly. Would that we could see such reunion by the youth of the North and the South in our own country. Perhaps it is not too much to hope that the Centennial will give occasion for a beginning of such meetings.

I have, &c.

C. C. ANDREWS.

No. 606.

Mr. Andrews to Mr. Fish.

No. 271.]

LEGATION OF THE UNITED STATES,
Stockholm, July 12, 1875. (Received July 31.)

SIR: It affords me much satisfaction to report the recent visit to Stockholm of the United States squadron, under the command of Rear-Admiral John L. Worden.

The squadron, which consisted of the flag-ship "Franklin," Captain Franklin commanding, and the "Alaska," Captain Carter commanding, arrived and anchored at Tralhafvet, (Slave Sea,) a sheltered expanse of water one mile out from Fort Waxholm and fifteen miles distant from Stockholm, about 4 o'clock Monday afternoon, the 5th instant. Owing to obstructions at Fort Waxholm, vessels like the Franklin cannot yet come up to Stockholm.

As the King was going to start for Russia at 6 p. m. Tuesday, and believing it would have a good effect if the admiral and some of his officers should go to the palace and pay their respects to him, I had been at some pains to be advised of the arrival of the squadron, so that I could communicate with the admiral in season to effect that object. Through the kindness of Admiral Lagercrantz, of the Swedish Navy, I was enabled to get out to the squadron by 8 p. m. Monday; at the same time Admiral Lagercrantz sent out his aide, Captain Van Horn, to welcome Admiral Worden, and to tender him the use of the fine government steamer, the "Skoldman," which conveyed us out during his stay here. I might add that I was glad to make Admiral Worden the first visit on account of his very distinguished public services.

* * * * *

The result of the trip was that I was enabled promptly the next day, at 12 o'clock noon, to present Admiral Worden and ten or twelve of his officers, all in full uniform, to His Majesty. The latter greeted Admiral Worden with hearty cordiality, and, while holding the admiral's hand in both of his, said to him, [in a voice so as to be heard by all in the room:] "Your eminent services to your Government are well known and admired in my country—in all countries, indeed, where good conduct and heroism are appreciated." His Majesty spoke a few words with about all of the officers. His manner was unrestrained and cordial, and made, I believe, a good impression. The officers were from various parts of our country. One was from Massachusetts, two or three from New York, one or two from Maryland, one from Tennessee, one from Missouri, and so on. I am sure the King must have been very favorably impressed by their appearance. He said to the admiral, and repeated the remark, that he was sorry their visit had occurred while he was to be absent, for he would like to have been present and shown them some attention.

Immediately after this audience, I accompanied the admiral, Captain Franklin, and Lieutenant Soley of his staff also being along, on visits to the minister of marine, Baron Von Otter, and the Swedish admiral, Mr. Lagercrantz, with both of whom personal interviews were had. We also left cards at the residences of the governor and military commander of Stockholm. Admiral Worden then paid an official visit to the legation.

The same morning Lieutenant Hjulhammer, of the Swedish navy, was assigned by the minister of marine for duty as aide to Admiral Worden during his stay in Stockholm.

At Admiral Worden's first interview with the minister of marine he

accepted the latter's invitation for an excursion by steamer, on Thursday, to the old castle of Gripsholm. In this excursion, besides the admiral's party and a number of families of distinguished Swedes, was the family of the British minister, and my own family. Breakfast was served on board the steamer and dinner at the port at Gripsholm. A band of music accompanied the excursion. On our return we visited the palace of Drottningholm.

At 5 o'clock Wednesday, the day previous to this excursion, Admiral Worden and one of his daughters, Captain Franklin and wife, General Keyes, and several officers of the squadron, dined at this legation. The party was also honored with the company of the Swedish minister of marine and wife, Admiral Lagercrantz and wife, and other officers of the Swedish navy; there being in all twenty-two guests.

On Friday, Admiral and Mrs. Worden gave a fine breakfast on board the "Franklin" to about the same party of ladies and gentlemen who were on the excursion to Gripsholm, including the British minister, the Hon. Edward Erskine, his wife, and two daughters. The band of the "Franklin" discoursed fine music, and the entertainment was in all respects delightful, and appeared to be highly agreeable to all who took part in it. On our passage out to the "Franklin" that day we called at the new and strong fort of Fredretsborg, to give Admiral Worden an opportunity to inspect it.

It was the admiral's intention to have the squadron start for Cronstadt on Saturday at 1 p. m., but, as stormy weather came up, it did not get off till Sunday morning. Up to Saturday the weather had been clear and warm.

About the time of the admiral's arrival two of the principal daily newspapers of Stockholm published full and graphic accounts of the celebrated combat between the Monitor and the Merrimac; one of the accounts being taken from Lossing's History of the Civil War. The Swedes thus had their recollections refreshed as to his brilliant record, and the imperishable manner in which his name is associated with that of their countryman, John Ericsson.

Several thousands of the people of Stockholm visited the "Franklin." In the vicinity of Waxholm are many summer villas, occupied by residents of Stockholm; and the newspapers mention that the latter gave an entertainment to some of the officers of the squadron, by whom it was in return politely reciprocated.

The newspapers have invariably spoken in a complimentary manner of the squadron and its officers, of the appearance of the ships, and the cleanliness, order, and harmony prevailing on board.

I am confident that this visit to Stockholm of Admiral Worden and the squadron under his command has made an excellent impression here. If the King had been present, I am pretty sure the admiral would have received attention from him. I only regret that the squadron was not able to make a longer stay here, so that something more could have been seen of the interior and more fertile parts of Sweden—something of the beautiful country estates.

I was informed there was no sickness on the "Franklin."

I am, &c..

C. C. ANDREWS.

No. 607.

Mr. Andrews to Mr. Fish.

No. 272.]

LEGATION OF THE UNITED STATES,
Stockholm, July 16, 1875. (Received August 7.)

SIR: I have the honor to submit a few statistics of crime and prisons.

The criminal jurisprudence of Sweden, being much like the continental system, differs of course in many respects from that of the United States. There is no trial by jury, except in cases involving the liberty of the press. The grand jury does not exist. The accused in all cases is liable to be cross-examined by the judge. Although the law declares that the testimony of a single witness furnishes but *half* proof of guilt—a second witness or circumstances being required for the other half—yet it happens that only eleven per cent. of all who are arraigned for crime get acquitted. This *certainty* of justice deprives people of any pretext for taking cases out of the hands of the courts; consequently, “lynch law” has been unpracticed for many generations. There is a feeling beginning to show itself in the country that the law in some small cases of larceny is unduly severe. For stealing hay or straw from a field, fruit from an orchard, vegetables from a garden, even though the article may be of slight value, a person is liable, in the discretion of the judge, to imprisonment at hard labor for one year. Though they are exceptional, cases actually occur where a person convicted of four repeated offenses of larceny, unattended with house-breaking or other aggravated circumstance, and where the aggregate value of the property stolen does not exceed 18 kronor, (\$4.80,) undergoes imprisonment, at labor, in the aggregate from nine to eighteen years, and a loss of political rights possibly for life.

The cost of such a convict to the State for eighteen years would be about 4,000 kronor. In cases of larceny and felony, the convict, besides imprisonment, is liable to be deprived of “citizen confidence.” This part of the sentence makes a person technically disreputable, and disqualifies him from holding any public office and from voting. A person convicted a second time of stealing property of upward of fifteen kronor (\$4) in value, is liable, in the discretion of the judge, to be politically disqualified for life. The minimum period of disqualification was in 1872 reduced from five years to one year. On the other hand, some punishments seem characterized by mildness. A mother who murders her illegitimate infant is only liable to be punished by imprisonment, with labor, for from four to ten years.

The crime of rape is punishable by imprisonment and labor from six to ten years. Capital punishment is very seldom resorted to. There has been but one execution in several years, and that was in the case of a convict who had killed a prison-officer. The method of execution is by beheading. The penitentiaries of Sweden compare favorably with those of any other country in Europe; and the provincial or county prisons, on the solitary-cell principle, for convicts undergoing sentences of not exceeding two years, are spacious, cleanly, and well administered. The *criminal statistics* of Sweden are published annually in two official reports; one, and the more complete, by the department of justice; the other, by the administration of prisons. The former is a quarto document of 150 pages, the latter of 50 pages. From the first-mentioned report, for the year 1872, it appears that the whole number of *persons convicted* of offenses in that year, including cases in the military courts, was 35,142, of whom 2,942 were females. The number of *offenses*

of all sorts of which persons were convicted was 39,210. Of these, 13,028, or 36½ per cent., were violations of police regulations, laws concerning the public economy, or the like. The number of convictions of willful murder was 23; of homicide, 54; of infanticide, 38; of robbery, including burglary, 13; of perjury, 27; of forgery, 101; of adultery, 69; of mockery of religion, 28; of assault and battery, 2,007; of larceny of all sorts, 1,948; of drunkenness, 11,748. The whole number of the more felonious, or, as the report describes them, *coarser* crimes, was 1,830, being one case to every 2,322 inhabitants of the country. [The population of Sweden in 1873 was 4,297,972.]

In respect to the literary capacity of those convicted of this last-mentioned class of crimes, forty-three per cent. could read and write, fifty-four per cent. could read but not write, and only three per cent. could neither read nor write. Only one, however, of the whole number was well educated. [The opponents of popular education, and especially the opponents of compulsory education, make a great handle of such large percentages of criminals who can read or write. Of course there is a wide difference between *education* in its proper acceptation and the capacity barely to read and write.] Forty per cent. of those convicted of the more felonious offenses had previously undergone punishment for crime. Convictions for all offenses, including drunkenness, violations of ordinances, &c., reached their highest number during the five years 1855-1859, a period of business depression, when they averaged, annually, 43,016, which was a little more than double the average during the five years 1830-1834. During the five years 1865-1869, the annual average number of convictions was 35,117. The report for the year 1872 shows some increase of crime over the immediately preceding years. With regard to drunkenness, it may be said that the law is not strictly enforced. The statistician of the department of justice, Mr. Gyllenskjöld, in summing up the chief causes of crime, declares them to be "vicious education, habitual in-rooted vice from childhood, a vagrant and idle manner of living, weak intellect, and intemperance."

Considering how much the welfare of society everywhere depends on the culture of the mother, I shall not omit here to state that the public provision in Sweden for the education of females remains much inferior to what is provided for males.

The latest prison-report is for the year 1873. From this it appears that the average number of convicts in all the prisons during that year was 4,906, or 486 less than in 1872.

There are in all forty-eight prisons and jails. In the county or provincial prisons and jails there are 2,255 light cells for solitary confinement and work, and 97 dark cells. The average cost of the prison-ration per day, including all of the prisons, was seven cents and three mills, coin; which was half a cent more than it cost the previous year. The prison-expenses amounted in 1873 to 1,774,861 kronor.* The income from convict-labor was 156,103 kronor, besides labor on the fortifications, which the state derived, of the value of 25,867 kronor. During the year, 71 convicts partook of the sacrament for the *first* time, all of the others, as it would seem, having previously done so, that religious rite being in this country a matter of course. The number of persons imprisoned for debt was only ten, whereas in 1864 the number was 327. At the close of the year 1873 there were in the different prisons 661 convicts sentenced for life; 1,836 sentenced for a less period, but for over two years; and 790 for a period not exceeding two years, the last mentioned being in

* 1 kronor is equal to \$0.26.80.

solitary cells. Of 196 men and 35 women sentenced in 1873 for the *second* offense of larceny, 186 men and 32 women had before undergone punishment in cell for the *first* offense of larceny. The aggregate number of days that all of the prisoners were on bread and water was 7,002.

The latest official report published on the *criminal statistics of Norway* is for the year 1871. From this it appears that the number of persons arraigned for so called "justice offenses" before the civil and mixed, civil-military tribunals, in 1871, and not including cases before the local courts of summary jurisdiction, was 3,612, of whom 297 were persons of foreign birth. The aggregate number of offenses with which they were charged was 2,574. The number of persons condemned to punishment for such offenses, whether arraigned that year or previously, was 3,240. The numbers convicted of some of the more serious offenses were as follows: Offense against religion, 1; against public dignity and authority, 129; counterfeiting, 10; perjury, 4; murder, 1; manslaughter, 6; infanticide, 17; bodily injury, 210; libel, 2; rape, 8; incest, 15; bigamy, 1; adultery, 32; unlawful cohabitation, 205; seduction, 11; robbery, 2; fraud or cheating, 139; larceny, 1992; forgery, 64; arson, 10; damage to property, 24, &c. Only one convict was sentenced to capital punishment.

The following were the periods of imprisonment to which convicts were sentenced, and the number of convicts as to each period: For life, 2; for over nine years, 12; from six to nine years, 19; five to six years, 9; four to five years, 38; three to four years, 76; two to three years, 65; one to two years, 144; and from six months to one year, 381; besides, in some cases, fines. For the violation of so-called *police* laws, relating to the production of whisky, the sale of intoxicating drinks, to licenses, schools, militia, fisheries and forests, begging, drunkenness, &c., 1,105 persons were arraigned and were convicted or made settlement, and 12,561 made settlement under the amicable adjustment system, without being arraigned; in all, 13,666. Add to this number the before-mentioned 3,240 sentenced for "justice" violations, and 39 convicted in courts-martial, and we have the number of 16,945 persons who in 1871 were convicted, imprisoned, or fined under the penal laws. In course of the same year the number of persons who paid fines on account of offenses was 10,448; of whom 9,991 paid a fine under the sum of ten "specie" dollars. The number who underwent imprisonment in the local jails for inability or refusal to pay a fine was 2,519. As to 339 persons the fine was remitted; as to 3,952 the fine remained unsatisfied, making in all 17,258 persons who during the year were liable to the payment of a fine.

In the eight prisons for the more serious offenses there were confined in course of the year 1,365 convicts. Of these, 386 were sentenced for the first conviction, 139 for the second, 199 for the third, 222 for the fourth, 199 for the fifth, 118 for the sixth, 54 for the seventh, 21 for the eighth, 13 for the ninth, 4 for the tenth, 3 for the eleventh, 5 for the twelfth, 1 for the thirteenth, and 1 for the fourteenth. The accused is allowed an attorney, at public expense, to assist him on his trial. The attorney is selected by the provincial governor. The population of Norway in 1872 was 1,763,000. Now, of those convicted in 1871 there were 746 who were sentenced to imprisonment for over six months, including one sentenced capitally. Assuming that these were the number of cases of aggravated crime it would show one such offense, for which conviction was obtained in course of the year, to every 2,274 inhabitants, which is about the same proportion as in Sweden. The report does not show the literary capacity of the offenders. It, however, classifies them according to sex, age, previous occupation, and locality. It would seem that

the governments of both countries have for a long time set a commendable example in annually publishing full and painstaking reports of their criminal statistics.

I have, &c.,

C. C. ANDREWS.

No. 608.

Mr. Andrews to Mr. Fish.

No. 277.]

LEGATION OF THE UNITED STATES,
Stockholm, July 27, 1875. (Received August 14.)

SIR: Judging from the testimony of such newspapers as the "Golos," of St. Petersburg, and of several correspondents of Swedish newspapers, the recent visit to Russia by the King of Sweden-Norway has left in that country a decidedly favorable impression. There are not wanting reasons for such a visit being agreeable to Russia. Her own ruler had several years ago made a very friendly visit to this court, but no Swedish ruler had made a friendly visit to Russia for three-quarters of a century. And yet the countries were near neighbors. During the present century, favors and injuries as between Sweden and Russia have been to a certain extent mutual. The taking of Finland was a dreadful wound to Swedish pride, but looking upon the map an impartial observer must admit that it seems a natural part of Russian territory. On the other hand, Sweden owes the union with Norway to the influence of Alexander I of Russia. During the Crimean war, Napoleon III endeavored to have Sweden join in the contest against Russia, holding out as an inducement the recovery of Finland. Sweden abstained from any forcible interference, but was induced by Great Britain and France to enter into negotiations which, though of doubtful utility to herself, were in spirit unfriendly to Russia. Of late years the relations between these neighbors have been improving, aided, among other things, by the good results of Sweden's attending the Industrial Exhibition at Moscow about four years ago, by increasing commerce, by the good offices of the diplomatic representatives of the respective countries, and the tendency in each country to appreciate more and more the blessings of peace and internal development.

In a toast which King Oscar gave at Moscow, proposing the health of the Emperor, he said, "I admire and congratulate the Emperor who, for the welfare of his people, has carried out the greatest ideas." This sentiment has been made the text of an article in the St. Petersburg "Golos," breathing the spirit of progress, and at the same time eulogistic of the King. "The great ideas," says the *Golos*, "for whose realization King Oscar congratulates us in our Emperor's person, are: the great act of emancipation, the equalization of different civil classes, the admission of every one to legal defense, the organization of trial by jury, the right of citizens to take part in matters of local government affecting the general interest, and the placing all citizens on an equality in respect to obligations of service to the state." The article goes on to show how such measures have contributed to the prosperity and honor of Russia, and argues that it is only by a continuance in a progressive course that the real greatness of the country and the respect of mankind will be secured. Since the King's visit to Germany and Russia,

the press of both those countries has said many complimentary things about Sweden-Norway and their King.

His visits have been useful, if for no other reason, in drawing the attention of those two empires to these countries. The more the Swedes and Norwegians are studied the more they will rise in public estimation. They are a reading people of six millions whose ambition now is to rank in *culture* with the most enlightened states. Their influence is on the ascendant.

I have, &c.,

C. C. ANDREWS.

No. 609.

Mr. Andrews to Mr. Fish.

No. 283.]

LEGATION OF THE UNITED STATES,
Stockholm, August 11, 1875. (Received August 30.)

SIR: The Storthing of Norway adjourned on the 23d of June, after a session of four months. The budget introduced by the government for the fiscal year ending July 1, 1876, was 29,400,000 kronor; that voted by the Storthing amounted to 28,800,000 kronor. There was a surplus in the treasury of 3,880,000 kronor arising in 1871, and of 10,744,000 kronor arising in 1874. From the latter fund 3,290,400 kronor were appropriated for extraordinary expenses. An addition of twenty per cent. and upward (called "dear-times increase") to all salaries not exceeding 4,000 kronor a year, and to pensions not exceeding 2,000 kronor a year, was allowed, the same as last year. Restrictions were adopted similar to those taken by the Swedish government in respect to the importation of potatoes, particularly from America, with a view to keep out the potato-bug.

Considerable time was spent in discussing proposed amendments to the constitution for extending the right of suffrage, but none of the propositions were successful. The debates on that subject fill 280 columns of the official report. A committee of the Storthing was finally appointed to sit during the vacation and prepare a plan for suffrage extension. The Storthing, which has a traditional reputation for aiding science and learning, created three new professorships. It modified the university regulations so that students in the "real" course can dispense with the ancient classics. It provided that copyright may be secured by authors and their heirs, for thirty years, of dramatic, literary, and musical compositions. It adopted the coinage system, such as is now in use in Sweden and Denmark. It provided that the metrical system of weights and measures shall go into operation in six years. Eighty thousand kronor were appropriated for a survey of the fishing-waters bounded by Norway, the Farøe Islands, Iceland, and Spitzbergen, with a view to ascertain the routes of the herring-fish. The sum of 160,000 kronor was appropriated for the Philadelphia Exhibition, which, with the 20,000 kronor appropriated last year, makes \$48,240 (United States gold) that Norway has appropriated for that object. For railways there was appropriated the sum of 13,544,000 kronor. Provision was made for a survey of the important route from Christiania to Bergen. Some restriction was placed on the sale of fermented liquors. A new Storthing will be elected next year. There is nothing in the political situation of the country calling for special remark. The cabinet at Christiania, which has

long been presided over by Mr. Stang, appears to be working harmoniously; it, in reality, administers the government.

I have, &c.,

C. C. ANDREWS.

No. 610.

Mr. Andrews to Mr. Fish.

Fo. 284.]

LEGATION OF THE UNITED STATES,
Stockholm, August 14, 1875. (Received Sept. 2.)

SIR: In a report which I had the honor to send with my number 110, of June 10, 1871,* it was shown that the public debt of Sweden was then 119,000,000 "riksdaler," (now called kronor,) or \$31,000,000, and that it was incurred almost exclusively for railroads which the state owned. At the end of 1874 the debt amounted to 130,477,920 kronor, or \$34,794,000; and it is but fair to say that the state railways, for which the loans were made, comprise a capital equal to the indebtedness, and which yields a steady income of 5 per cent. Sweden's 5 per cent. obligations have for some years been firm at 102 and 103 per cent., and her 4½ per cent. obligations at 99, 99½, and 99½. Mr. Dudley Baxter, in his latest article on European loans, justly places Sweden, in respect to credit, in the first class of loan-taking states. Her last loan for railroads, to an amount of 18,000,000 kronor, was made at Frankfort at 4½ per cent. interest, for a period not exceeding sixty years, and at a price for bonds of 95½ per cent., which was perhaps favorable, considering that the loan was made at a time when there were apprehensions of another war between Germany and France. Owing to the budget containing large estimates for building railroads, there has sometimes appeared to be a deficit in the Swedish finances, when actually there has been a surplus of several millions.

Ever since the time of Charles XII, the business of the public-debt office has been under the sole charge of deputies annually chosen by the Riksdag. In 1813 Sweden was engaged on the side of the allies in the war against France, or rather against Napoleon, while Norway, acting with Denmark, was engaged on the side of Napoleon. At that time the issue of paper money was so extensive in all of the Scandinavian kingdoms that they made a partial repudiation. Norway resumed the payment of her current notes by paying two and one-twelfth dollars in coin for one hundred dollars of notes. Denmark redeemed hers by paying at the rate of ten and five-twelfths per cent., and Sweden hers by paying at the rate of 37½ per cent.†

The public debt of Norway at the end of 1873 was 35,240,800 kronor, (\$9,397,000,) and was contracted for railroads which the state owns. It is therefore merely nominal, as is the case with Sweden's. Only about a quarter part of the loan of last year for railroads has been availed of.

It was negotiated at a price for the bonds of 97½ per cent. with interest at 4½ per cent. While the credit of Sweden and Norway, as shown above, is good, it would seem that, considering their pre-eminent political tranquillity and their growing wealth, loans for purely productive purposes and for moderate amounts ought to be negotiated on even better terms than what has been stated.

I am, &c.,

C. C. ANDREWS.

*Foreign Relations of the U. S., 1871, pp. 806-817.

†See report of a board of commissioners on Swedish banking submitted to the King June 30, 1860, page 60.

No. 611.

Mr. Andrews to Mr. Fish.

No. 287.]

LEGATION OF THE UNITED STATES,
Stockholm, September 8, 1875. (Received September 29.)

SIR: There is no general day in Sweden for the choice of members of the Riksdag, but the elections occur from time to time, during a period of two or three months, as may suit the convenience of districts. Members of the first chamber are chosen for a period of nine years, and receive no direct pecuniary pay. Members of the second chamber hold for three years, and are paid 1,200 kronor for each annual session. Elections are now taking place for both chambers. Nearly half the members of the second chamber are already chosen, and by the end of this month I shall be able to report the result of the elections for both chambers.

Party lines are not yet drawn with clearness in this country; and no one party seems to be held responsible for the administration of the government. The present government party is the party of the aristocracy and of the cities and towns. Many of its members are large landed proprietors; and it embraces both liberal and highly conservative, if not reactionary, elements. The opposition party is the party of the landholding peasants, yet in it are some titled noblemen, and, though slow and conservative, is on the whole the more progressive of the two.

The present cabinet, though it contains no peasant, is a sort of compromise, and seems to have been formed with a view to conciliate the opposition and bring them over to the King's wishes on the army question.

The fact that the voting in the Riksdag is by secret ballot and never by ayes and noes, that the parties are geographical and largely one way in their respective localities, and that the elections are scattered along through a whole season, are among the causes direct and remote which render the canvass spiritless and tend to deprive it of any incentive to discussion.

The indications are strong that the opposition party will gain several members in the first chamber, and that it will have a larger majority in the next Riksdag than it had in the last. The leading question which it is expected will occupy the next session, meeting in January, will be the re-organization of the army, and, coupled with that, the abolition of the present system of land-taxation. It appears now as if a compromise measure, if any, will be adopted; that the system of taxation will go out of use after a series of years, and that a less burdensome military system will be accepted than was submitted by the government to the Riksdag at its last session.

The manner in which cabinet changes were made last spring afforded a fresh example of the way that ex-cabinet officers are provided for; and showed also that though there was a change of men, there was not much real change in the politics and policy of the administration. Mr. Carlsson, minister of justice, retired to his old position of judge of the supreme court, and was succeeded by Baron De Geer, president of the "Hof Rätt" or superior court. Baron De Geer's old place was filled by Mr. Berg, who for a long time had been a member of the cabinet, without a portfolio. The retiring minister of finance, Baron Akerhjelm, being wealthy and a member of the Riksdag, did not need a position and received none. He was succeeded by Mr. Hans Forsell, a young

statistical writer of ability, a printer, and who, about a year ago, was made secretary of the State Bank. Mr. Bergström, chief of the civil department, exchanged places with Mr. Thyselius, president of a bureau in the department of finance; Mr. Wennerberg, chief of the ecclesiastical department, retired to the office of governor of the province of Wexio, and was succeeded by Mr. Carlson, professor of history, who left the cabinet with Baron De Geer in 1870. The offices to which the ex-ministers were retired are considered life positions.

I have, &c.,

C. C. ANDREWS.

No. 612.

Mr. Andrews to Mr. Fish.

No. 297.]

LEGATION OF THE UNITED STATES,
Stockholm, October 5, 1875. (Received October 25.)

SIR: Sweden and Norway are every year making some progress in popular education. The appropriations for this object in Sweden for the year 1876 amount to 4,787,993 kronor, being an increase of 630,039 kronor over those for the year 1875. Of this sum 30,000 kronor are in aid of already existing private high schools for girls; and 20,000 kronor for so-called folk high schools, being a very useful sort of school for young adults of both sexes, and for support of which local contributions or tuition must equal what is granted by the state.

Besides the appropriations above mentioned over a million of kronor were appropriated for university and scientific education.

Once our country was, I believe, ahead of all other countries in popular education; but considering the rapid strides now making in this cause in England, and in which her best statesmen are lending a helping hand, as well as what is being done in some other lands, I am almost afraid that the United States, as a whole, will be left behind in the matter.

I have, &c.,

C. C. ANDREWS.

No. 613.

Mr. Stenersen to Mr. Fish.

[Translation.]

LEGATION OF SWEDEN AND NORWAY IN THE UNITED STATES,
Washington, January 14, 1875. (Received January 15.)

MR. SECRETARY OF STATE: The method of admeasuring vessels which has been in use in Sweden, since the year 1865, having presented some practical difficulties, the government of the King ordered, under date of May 15, 1874, that a system of admeasurement, agreeing exactly with that which is known as the Moorsom system, should be adopted on the 1st of April next. This system, in addition to its well-known intrinsic merit, also possesses that of having already been adopted by the principal maritime powers,

thus forming the basis of a unification of the regulations which govern this matter. As regards Norway, the question is not yet decided, a law which was passed on this subject not yet having taken effect. Several foreign governments have already made proposals to the government of the King for the reciprocal recognition of certificates of admeasurement, in order to spare merchant-vessels the expense and loss of time which they incur in consequence of the necessity of their re-admeasurement on their arrival in a foreign port, and the government of the King would be happy to see such reciprocity established, so far as Sweden is concerned, with all countries that have adopted, or intend to adopt, the Moorsom system.

It is with this object in view, Mr. Secretary of State, that I have the honor, by order of my government, and in its name, herewith to transmit to you a translation of the principal articles of the royal ordinance of May 15, 1874, in relation to admeasurement, and to propose to the American Government to establish, on the 1st April next, reciprocity as regards recognition of the certificates of admeasurement mentioned in article 3.

Calling your attention to the fact, Mr. Secretary of State, that article 6 of the ordinance mentions the deductions to be made from the gross tonnage in order to find the net tonnage, and that both will be found inscribed upon the certificates of admeasurement, I take the liberty to add that my government presumes that, if our proposal is accepted, the official publication at Washington and Stockholm of the advantages granted to the vessels of both parties will be sufficient to give the required sanction to our agreement; but that, if the American Government deems it necessary for said agreement to be made in a more solemn form, the government of the King proposes, to that end, an exchange of ministerial declarations.

Be pleased to accept, &c.

O. STENERSEN.

[Inclosure.—Translation.]

Royal ordinance concerning the admeasurement of merchant-vessels; issued at the castle of Stockholm May 15, 1874.

ARTICLE 1. The capacity of vessels serving as a basis for the collection of light-house and other duties, a method of measuring their tonnage shall be established. The measurement shall be effected by sworn measurers, and shall be verified in the order hereinafter prescribed by superintendents of admeasurement especially designated for this purpose.

ART. 2. The capacity of vessels is to be determined by the space which they contain appropriated to goods and to passengers.

The unity of measurement is a *ton*, which is a volume of 108.187 Swedish cubic feet, or 100 English cubic feet, (1 ton of register.)

ART. 3. All vessels devoted to commerce and freight, including the conveyance of passengers, must be measured; but vessels whose capacity does not exceed ten tons, and foreign vessels furnished with certificates of admeasurement issued in their own country according to rules similar to those established by this ordinance, shall be excepted, provided always that Swedish vessels arriving in the ports of said country are likewise exempted from admeasurement.

ART. 4. The capacity, which must be expressed in tons and hundredths of tons, shall be ascertained, either according to an improved method of admeasurement called hereinafter Rule I, or, in the case of vessels having their cargoes on board, or which for any other reason cannot be measured by that rule, according to a provisional method called Rule II.

By tonnage-deck, mentioned in the definition of Rule I, is understood the upper deck of vessels having one or two decks; and the second deck, starting from the bottom of the hold, of all other vessels.

RULE I.

ART. 5. § 1. The length of the vessel is measured in a straight line from stem to stern inside of the foot-waling, on the upper surface of the tonnage-deck. There are then deducted from it quantities corresponding to the rake of the stem on the part comprised in the thickness of the bordering of the deck and to the rake of the stern on a height equal to the thickness of the bordering of the deck, increased by a third of the convexity of the beam. The length thus found is divided in conformity to the following table into equal parts, of which the number depends on the class of the vessel, to wit :

Length of the tonnage-deck, according to the method indicated above.

| | Number of divisions to be made. |
|--|------------------------------------|
| 1st class, 51.33 feet (50 English feet) or less..... | 4 |
| 2d class, from 51.33 exclusively to 123.19 feet (120 English feet) inclusively..... | 6 |
| 3d class, from 123.19 feet exclusively to 184.79 feet (180 English feet) inclusively..... | 8 |
| 4th class, from 184.79 feet exclusively to 230.99 feet (225 English feet) inclusively..... | 10 |
| 5th class, more than 230.99 feet..... | 12 |

§ 2. The interior of the vessel having been then rid of everything which could prevent the taking of the measures of height and breadth, the transversal sections, at each point of division of the length, are determined as follows :

At each of the points of division is measured the depth or the height from a point marked at a third from the rounding of the deck beneath the deck, or, if the deck is not united, from a line drawn in continuation from the deck, until on the upper narrow surface of the floor-timbers on one side of the step of the mast, by deducting the mean thickness of the foot-wale between the streak of the limber-board and the clamp. If at the middle section the height does not exceed 16.43 feet, (16 English feet,) the heights of all the transversal sections are divided into four equal parts. The horizontal breadth is then taken, inside of the mean thickness of the foot-wale, at each of the points of division of the height of each section, including the extreme points. Each breadth is numbered, (Nos. 1, 2, 3, &c.,) starting from the tonnage-deck, and multiplied; the breadths Nos. 2 and 4 by 4, the breadth No. 3 by 2, and to these added-up products are added the breadths Nos. 1 and 5. The total is then multiplied by the third of the distance between the divisions of the height. The result gives the area of the section.

If at the middle section the height exceeds 16.43 feet, each height is divided into six equal parts. The horizontal breadths are measured at each of the points of division, the extreme points included, and are numbered starting from the tonnage-deck; the breadths Nos. 2, 4, and 6 are multiplied by 4, the breadths Nos. 3 and 5 by 2; the products are added up, and the breadths Nos. 1 and 7 are added. The total is multiplied by the third of the distance between the divisions of the height, and the result gives the area of the section.

§ 3. The area of each of the transversal sections thus found, the calculation of the capacity of the vessel is continued as follows :

The transversal sections are numbered starting from the head. Independently of the number of divisions of length, there is multiplied: the 2d section and all other sections of even numbers by 4, the 3d section and all other odd sections (the first and the last excepted) by 2. The products are added up, and the first and the last sections are added if they are expressed in figures; the whole is multiplied by the third of the interval between the sections. This product gives the volume in cubic feet of the space beneath the tonnage-deck, and on dividing it by 108.187 the capacity of this volume expressed in tons is obtained.

§ 4. As regards large or small poops, rouffles, or any other closed and permanent structures on the upper deck which can be utilized for the stowage of goods or provisions, or for the lodging of the passengers or crew, the capacity is determined in the following manner :

In the inside the mean length of each compartment is measured, and the middle of this length is taken; at this point, as well as at the two extremities, the breadth of the compartment at half of its height is measured; to the breadths of the extreme points is added the breadth of the middle multiplied by 4, and the total is multiplied by the third of the distance between the divisions of the length; the product gives the mean horizontal area of the compartment, expressed in square feet, which area, multiplied by the mean height of the compartment, gives its volume in cubic feet. This volume is divided by 108.187, and the quotient which expresses the tonnage of the compartment is added to the tonnage already found from the space beneath the tonnage-deck.

§ 5. When the vessel has a third deck, the space comprised between this deck and the tonnage-deck is determined in the following manner:

The length of the middle deck is measured on the inside at midway of the height, from the foot-wale at the side of the stem to the inside facing of the futtock of the stern. This length is divided into as many equal parts as for the tonnage-deck. At each of the points of the division, as well as at the extreme points, the breadth is measured at midway of the height. The breadths are numbered, (1, 2, 3, &c.,) starting from the head. The second and the others having even numbers are multiplied by 4, and the third and the others having odd numbers, except the first and the last, are multiplied by 2; to the total of these products the first and last breadths are added; this total multiplied by the third of the distance between the points of division of the length gives the mean horizontal area of the middle deck expressed in square feet. The bulk of the middle deck expressed in cubic feet is then obtained by multiplying this area by the mean height. This product is divided by 108.187, and the quotient which expresses the tonnage of the middle deck is added to the tonnage already found. If the vessel has more than three decks, the tonnage of each middle deck will be calculated separately in the manner before described and added to the principal tonnage.

§ 6. In vessels without decks the upper edge of the streaks of plank from stem to stern is considered as the limit of the space to be measured. Consequently, at each point of division of the length, the heights will be taken starting from a transversal line led from one side to the other of the above-mentioned limit.

ART. 6. In order to determine the tonnage which is to serve as a basis for the collection of duties, (*net tonnage*,) there will be deducted from the total tonnage, calculated according to the preceding article:

(a) In vessels propelled by steam or by any other mechanical power requiring a room for the engines, the space occupied by the impelling apparatus or which may be necessary to give access to the air and the light in the engine-room; in no case shall this deduction exceed 50 per cent. of the total tonnage;

(b) Each compartment, whether above or beneath the deck, exclusively appropriated to the lodging of the crew, and having a bulk of 78 cubic feet (72 English cubic feet) at least, and a horizontal area on the flooring of 12.64 square feet (12 English square feet) at least for each man intended to be there lodged; on condition, however, that the flooring, the bulkhead, and the roofing of the compartment in question should be well and duly calked, that it should be solidly constructed, and provided with the necessary arrangements for the change of air and the drainage of water, and, finally, if the vessel be Swedish, that the compartment shall have inscribed over the entrance or door, or on the beam, "—men," indicating the maximum number of persons who can be there lodged according to the foregoing rules;

(c) The galley, if it only occupies the space which is indispensable to enable the cook without difficulty to prepare the victuals for the passengers and crew;

(d) The hatch-frames of the stairways leading to the cabins and to the lodgings of the crew, the sky-lights, the hatchways, the quarter galleries, and other similar constructions of limited dimensions; and

(e) The shelters for the deck-passengers, as well as the saloons for passengers in general, placed on the decks of boats performing service on the rivers and coasts, (saloons and cabins used for lodging not included,) but this deduction shall only be allowed after the fitter-out or owner shall on his request have obtained from the general custom-house a special license for this purpose.

§ 2. In case the rules already prescribed cannot be applied to a calculation of the space of the compartments in question, the provisions of the instructions to measurers, of to-day's date, will be conformed to.

RULE II.

ART. 7. The length of the vessel is taken on the upper deck, from the after-surface of the stern-post to the outside surface of the bordering near the stem, or, if the vessel is without decks, from the after-surface of the stern-post beneath the streaks to the outside surface of the bordering near the stem. The length is divided into four equal parts, and at each point of division the whole circumference is measured, and thus becomes known as to three parts of the vessel. The area of each of the sections is determined by tables calculated in advance. To the forward section is added half of the middle section and the after-section. The result is multiplied by the third of the length, and by multiplying also the product by one of the following factors, to wit,

| | |
|-------------------------|--------|
| For wooden vessels..... | 0.0075 |
| For iron vessels..... | 0.0078 |

the number of tons is obtained. The compartments on the deck, included in the tonnage according to § 4 of article 5 of Rule I, having then been measured and added, the total tonnage of the vessel is obtained.

§ 2. To find the tonnage of these compartments, the mean length, breadth, and height of each of them are multiplied by each other, and the product is divided by 108.187.

§ 3. To determine, then, the tonnage which is to serve as the basis for the collection of duties, the same deductions will be made as are mentioned in article 6 relating to Rule I.

* * * * *

ART. 36. This ordinance shall go into effect on and after the 1st of April, 1875. Every Swedish vessel whose tonnage prior to that period has been measured according to the old method, and whose certificate of admeasurement is valid according to the regulations in force up to that day, shall be measured anew, in conformity to the provisions of the present ordinance, in the interval between the 1st of April, 1875, and the 1st of April, 1877. Every vessel in this category which shall enter into a Swedish port after the latter period, as well as every other vessel of more than ten tons capacity which, after the 1st of April, 1875, shall enter into a Swedish port, and shall not have had her tonnage measured according to the present ordinance, must be admeasured, even though they be laden, and on that account or on any other can only be admeasured according to Rule II.

No. 614.

Mr. Stenersen to Mr. Fish.

LEGATION OF SWEDEN AND NORWAY IN THE UNITED STATES,
Washington, May 20, 1875. (Received May 20.)

MR. SECRETARY OF STATE:

Referring to your note of the 15th of March last, I have the honor, in obedience to the orders of my government, herewith to send you a copy, together with a French translation of the order of the general direction of customs, dated April 6, 1875, relative to the exemption of United States vessels from admeasurement in Sweden. * * *

Be pleased to accept, &c.

O. STENERSEN.

[Inclosure.—Translation.]

Order of the general direction of customs.

In consideration of the provisions of the new royal order of May 15, 1874, relative to the admeasurement of merchant vessels, article 3, whereby foreign vessels having certificates of admeasurement given in their respective countries (in accordance with the principles established by said order) are exempted from the general obligation of admeasurement provided by the same article, on the condition, however, that Swedish vessels arriving in the ports of the foreign countries to which such vessels belong, shall be exempted from admeasurement; in view of the letter of March 30, 1875, whereby the minister of foreign affairs informed this office that the Government of the United States of America had declared that Swedish vessels, having a Swedish certificate of admeasurement, issued in accordance with the same principles, on or after the first day of April, 1875, should be considered in American ports as being of the net tonnage inscribed in the certificate, with the addition, however, of the cubic contents of the compartments, for which no deduction is allowed by the American law relative to the admeasurement of vessels, the general direction of customs orders and hereby gives notice that vessels of the United States of America having certificates of admeasurement issued in their country, in accordance with the principles established by the royal order aforesaid, shall be exempted from admeasurement in Swedish ports.

Stockholm, April 6, 1875.

A. G. VON BENNICH.
E. A. HERNBLÖM.
A. BRÄNDSTRÖM.
AXEL BJÖRKMAN.

No. 615.

Mr. Grip to Mr. Fish.

LEGATION OF SWEDEN AND NORWAY IN THE UNITED STATES,
Washington, July 31, 1875. (Received August 2.)

Mr. SECRETARY OF STATE :

With the note which Mr. Cadwalader did me the honor to address to me, under date of the 14th ultimo, he was pleased to inclose a form of the certificates of registry which are in use in the United States, expressing, at the same time, a desire to know whether these certificates would be recognized by the government of Sweden as sufficient to exempt vessels furnished with them from the obligation of being admeasured anew in the ports of Sweden. In reply, I have the honor, by order of my government, to inform you, Mr. Secretary of State, that in the order issued by the general direction of customs on the 6th of April last, relative to the exemption of the United States vessels from admeasurement, the term "*mütbref*"—*certificat de jaugeage*—is considered identical with "certificate of registry," and that, consequently, vessels of the United States of America being exempted from admeasurement in the ports of Sweden will be considered as being of the capacity stated in their certificates of registry.

Be pleased to accept, &c.,

A. GRIP.

SWITZERLAND.

No. 616.

Mr. Rublee to Mr. Fish.

No. 176.]

LEGATION OF THE UNITED STATES,
Berne, July 23, 1874. (Received August 20.)

SIR: Believing that the subject will not be without interest to you, I subjoin a summary of the recent law re-organizing the federal judiciary of Switzerland, and extending its jurisdiction in accordance with the provisions of the new constitution.

A federal tribunal, is constituted of composed of nine members and the same number of substitutes. These are chosen by the federal assembly, which will take care that the three national languages are represented in the tribunal. The term of office is six years. During their tenure of office the members of the tribunal are not permitted to hold any other office or employment in the service of the confederation or of the cantons, to follow any other career or profession, nor to act as a director or member of the executive board of any association which has for its object pecuniary gain.

I may here mention, parenthetically, that hitherto a curious accumulation of public functions has, in this country, frequently been allowed to be vested in a single individual. As an instance, I recall the circumstance that quite recently one of the members and the president of the old federal tribunal was at the same time a member of the federal legislature and the president of his canton.

The new law, not content with prohibiting the members of the federal tribunal from holding any other office, provides further that kinsmen or relatives, in the line direct, indefinitely, and in the line collateral, to the degree of cousin-german, may not be members or officers, at the same time, of the tribunal. A member or officer of the tribunal who may contract a marriage which brings him within the prohibited relations to another member or officer will be held by this act to have resigned.

The president and vice-president of the tribunal are chosen from among its members by the federal assembly every two years. Seven members form a quorum. Their salaries are fixed at ten thousand francs per annum, with the exception of the president, who receives eleven thousand francs. The members are required to reside at the place selected for the seat of the tribunal. Vacations may be taken once or twice a year, not to exceed four weeks in the aggregate, during which the members, except the president and vice-president, may absent themselves from their official residence.

The cases in which a member of the tribunal is forbidden to sit as judge are carefully enumerated, and include those to which his native canton or commune is a party.

Objection to a judge's sitting in a given case may be made by either of the parties thereto, or he may himself demand to be excused. When such objection is contested the tribunal will pronounce upon it.

CIVIL JURISDICTION.

The civil jurisdiction of the tribunal extends to differences—

- (1.) Between the confederation and one or several cantons;
- (2.) Between corporations or individuals, as plaintiffs, and the confederation, as defendant, where the interest involved is not less than three thousand francs;
- (3.) Between the cantons;
- (4.) Between cantons and corporations, or individuals, when a sum not less than three thousand francs is in question.

Further, it has jurisdiction in case of differences relating to the *heimathlosat*, (a condition of certain natives of Switzerland who have no local citizenship,) of contests that arise between communes of different cantons, and of all causes placed within its competence by special federal legislation.

By existing federal laws it has jurisdiction: (a) In contests respecting expropriations for railways or other works of public utility; (b) respecting divorces and mixed marriages; (c) in differences between the confederation and railway companies, and especially of actions for damages; (d) of actions for damages by railway companies against individuals; (e) or by one railway company against another; and (f) of all contests arising from the sale of railways under an execution.

In causes where the application of federal laws by a cantonal tribunal is brought in question, the amount involved being not less than three thousand francs, or not susceptible of estimation, either of the parties may appeal to the federal tribunal from the cantonal court of last resort. By an agreement, the parties to such causes may appeal directly to the tribunal from the cantonal court of first instance.

Further, the tribunal has jurisdiction of causes placed within its competence by the constitution or laws of a canton, with the ratification of the federal assembly; and those brought before it, by agreement of the parties thereto, when a sum of not less than three thousand francs is in question.

PENAL JURISDICTION.

The tribunal, aided by the jury, has jurisdiction—

- (1.) In cases of high treason against the confederation, or of revolt or violence against the federal authorities ;
- (2.) Over offenses against the law of nations ;
- (3.) In cases of political offenses which are the cause or the consequence of troubles requiring armed federal intervention ;
- (4.) In case of charges brought against functionaries named by a federal authority when committed to the tribunal by such authority.

Further, in other cases placed within its competence by the constitution or laws of a canton, ratified by the federal assembly.

For the administration of penal justice, the federal tribunal is divided into three sections, to wit, a chamber of accusation, a criminal-chamber, and a tribunal of cassation. These three chambers are designated at the beginning of each year. No judge can act in the same case in more than one section of the tribunal.

The federal assizes are composed of the criminal-chamber, consisting of three members of the federal tribunal and three substitutes, with twelve jurymen. The three national languages must be represented among the judges of this court. The jurymen are taken by lot from lists chosen by the people of the cantons.

The territory of the confederation is divided into five assize districts, one comprising that portion of the country in which the French language predominates ; one that in which the Italian language is spoken, while that where the German language prevails, comprises the three remaining districts. One juror is chosen for every one thousand inhabitants in the several districts, except in the fifth, (the Italian district,) where the proportion is one to every five hundred inhabitants. The names of the jurors elected are placed on the lists of their respective districts, to be drawn by lot, as occasion requires. The lists of jurors are renewed every six years.

The mode of impaneling the jury is as follows : Prior to the opening of each session of the assizes, the criminal-chamber causes the names of the jurors of the district to be placed in an urn ; fifty-four names are then drawn from the urn, read, and registered ; copies of the special list thus formed are communicated to the prosecuting attorney, as well as to the accused or his counsel. Twenty jurors may be challenged by the defense, and twenty by the prosecution. If as many as forty in all are not challenged, the chamber chooses fourteen by lot from among those not excepted to ; and from the fourteen, two are chosen by lot and joined to the remaining twelve who constitute the jury, to act as substitutes in case of need.

The cantonal governments are required to provide suitable accommodations for the assize courts, the expenses, except for rent, being borne by the treasury of the federal tribunal. A court of cassation is provided for, composed of the president of the federal tribunal, of four other judges, and three substitutes. It has jurisdiction in appeals in cassation, applications for revision or rehabilitation in criminal cases, and appeals from the decision of cantonal tribunals respecting violations of the federal fiscal laws.

PUBLIC LAW.

The federal tribunal has jurisdiction in case of questions of competence arising between the federal and cantonal authorities. When a

difference of opinion exists as to whether a given case falls within the competence of the tribunal, or of the federal council, the federal assembly will decide upon such difference.

The tribunal has jurisdiction, also, in controversies relating to public law, arising between the cantons, such as those concerning the rectification of intercantonal boundaries; questions of jurisdiction between the authorities of different cantons; the construction and application of intercantonal treaties, &c. It will also decide upon demands for extradition, made by virtue of existing extradition treaties, in so far as the application of the treaty in question is contested. The preliminary measures in such cases will remain, however, within the competence of the federal council.

Further, it will decide upon appeals taken by individuals or corporations against decisions of cantonal authorities, relating to the violation of rights guaranteed to them by the constitution, or federal legislation, or by the constitution of their respective canton, as well as of appeals against the decision of cantonal authorities concerning violations of intercantonal conventions and concordats, and of treaties with foreign powers.

The seat of the tribunal was established at Lausanne by a separate decree of the federal assembly. In the balloting which occurred in order to determine upon the locality to be so designated, Lucerne united the greatest number of ballots as a first choice. It was deemed, however, expedient to reward the French cantons for the more favorable attitude which they have lately assumed toward the federal government. Hence, I think, the vote of the friends of Berne, Zurich, and Basle for Lausanne as their second preference.

In consideration of becoming the seat of the tribunal, and the judicial center of Switzerland, Lausanne assumes all the expenses attendant upon the local establishment of the court. Temporary rooms will be in readiness for it toward the close of the present year, and a *palais de justice* will be erected for its exclusive occupation with as little delay as possible. * * *

I have, &c.,

HORACE RUBLEE.

No. 617.

Mr. Rublee to Mr. Fish.

No. 192.]

LEGATION OF THE UNITED STATES,
Berne, October 14, 1874. (Received November 7.)

SIR: The session of the federal assembly was resumed on Monday, the 5th instant, and will probably continue until the opening of the next regular session, on the first Monday of December.

The present session will be almost exclusively devoted to the consideration of measures rendered necessary by the adoption of the revised constitution. Among these are bills for the re-organization of the army; regulating the exercise of the right of suffrage by Swiss citizens; providing for military pensions; a uniform law respecting the keeping of the civil registers and in relation to marriages; a general banking law; a law concerning prosecutions for debt and in relation to bankruptcies; a law regulating the transmission of freights by railways; and a law respecting the responsibilities of railway companies and other common carriers in cases of injury to passengers by accidents.

It is probable that it will be found necessary to postpone the consideration of a part of these measures until the winter session. The military-organization bill, as it is considered the most important, takes precedence of all the others. A large part of the session is likely to be occupied in its consideration. The problem which it presents is how, in view of the present state of military science, to organize a federal army adequate to the defense of the national territory, and yet not imposing an intolerable burden on the national budget. The president of the council of states, M. Kœchlin, in opening the session of that body, on the 5th instant, referring to this measure, said that when, in 1870, Switzerland asked, in confidence, through its minister at Berlin, to what extent it might count upon respect for its neutrality, the present chancellor of the German Empire replied: "To the extent to which you yourselves respect the device of the Scottish Order of the Thistle: *Nemo me impune lacessit.*" Therefore, continued M. Kœchlin, a well-trained army, always ready to march, and provided with the best of arms, will be the surest guaranty of our neutrality.

The past year has been marked, in Switzerland, by an unusual degree of political activity. The winter months were occupied by the discussions, in the national assembly, upon the revision of the federal constitution. The submission of that instrument to the popular approbation and its adoption by the people followed. Then came the task of readjusting and placing in harmony with the new constitution, not only the federal laws, but the constitutions and the legislation of the cantons. As might be anticipated, among a people long habituated to republican institutions and to the free discussion of all public measures, many diversities of opinion have arisen. Those favorable to a strong central government have sought to give the broadest interpretation to such provisions of the new constitution as enlarge the field of federal authority, and to regain, if possible, by construction, some of the ground they were obliged to surrender when the compromises were effected by which a majority was obtained for the revision. On the other hand, another class, jealous of every encroachment upon the traditional prerogatives of cantonal power, are not less active in attempting to restrict and narrow the limits of federal action.

In the main, however, as far as I have been able to observe the conduct of the government and of the various parties, associations, and interests which are taking an active part in this remodeling of the political fabric, I have been most favorably impressed by the sound, healthy, normal, upright, vigorous, republican character which it reveals. The greatest care is observed in the preparation of important legislative measures. A bill like that for the re-organization of the army, or that providing for a uniform law in relation to prosecutions for debt and proceedings in bankruptcy, is first carefully drawn up, either by the federal council, or by a commission appointed by that body. In the latter case great pains are taken in the selection of competent persons to act on the commission. Among its members will be found both practical men and men of theory, experienced lawyers, men versed in legislation, and one or more leading professors from the Swiss universities. In case of a bill relating to military affairs, experienced officers will of course have a place in the commission. In the case of the bill concerning prosecutions for debt and bankruptcy, the federal council addressed circulars to each of the cantonal governments and to the judges of the cantonal courts asking for suggestions. When the bill, thus prepared, is finally drawn up, it is published, accompanied by a message from the federal council explaining its provisions in detail, and giving reasons

for their adoption. The people then, in their turn, subject it to criticism. All who are interested have an opportunity to consider it and to make their opinions known before it is taken up in the legislative chamber. Popular associations, which are almost innumerable in Switzerland, meet and pronounce upon it if it relates to any subject that especially concerns them. Law societies, teachers' societies, commercial unions, the Turners, the great popular association of the Volks Verein, which embraces all classes; some or all discuss it, and perhaps suggest amendments or modifications. Thus, when the bill is presented for the action of the legislature it is pretty certain to be already a well-digested measure, and public opinion in regard to it is very thoroughly known. In the chambers it is again submitted to a careful scrutiny. After receiving the sanction of the two houses, however, and becoming a law, as far as representative action can make it such, it is not yet a law. If, within a given period, thirty thousand voters, or the governments of eight cantons unite in making the demand, it must be submitted to and approved by the popular vote before it becomes a law.

The procedure may be a little cumbersome and complicated, but it affords a strong security against the evils of hasty legislation. Moreover it occupies parties and politicians with the consideration of measures in detail. It enlists popular interest in legislation and gives to the individual citizen a deeper sense of his influence and his responsibilities in connection with the government. Minorities are expected to present their views and to disclose their programmes. It is not enough for them to hold aloof and reticent until a measure is passed, and then to assail it in general terms. If they neglect or fail to present something more acceptable, their subsequent censures have little weight. Expressions of opinion respecting public affairs have accordingly the great merit of being generally definite and unambiguous.

The interest manifested in the legislative changes now taking place extends to all classes. The country appears to have the hearty co-operation of its best and wisest citizens, and these seem to be moved not by a mere desire to fill a conspicuous place in the eyes of the public, or to associate their names with some prominent measure, but by a sincere wish to aid in determining and achieving what is really for the true welfare of the State.

At a time when, in some European countries, very anomalous forms of government have assumed the republican name, it is gratifying to observe that there is at least one European state in which republicanism is both properly understood and properly practiced, and where a government of the people, by the people, unites, with as large a measure of individual liberty as exists in any organized community, all the advantages of order and stability, of careful and judicious legislation, of economy in the administration and justice in the execution of the laws, to as high a degree as can be found in any country upon the earth.

I have, &c.,

HORACE RUBLEE.

No. 618.

Mr. Rublee to Mr. Fish.

No. 194.]

LEGATION OF THE UNITED STATES,
Berne, October 24, 1874. (Received November 18.)

SIR: I have the honor to inform you that on the 22d instant the two houses of the national assembly met in joint convention for the election

of the members of the new federal tribunal, which will have its seat at Lausanne.

The following gentlemen were elected: Messrs. Jules Roguin, of the canton of Vaud; J. J. Blumer, of Glarus; J. K. P. Morel, of St. Gallen; F. Anderwert, of Thurgau; Gustave Pictet, of Geneva; R. Niggeler, of Berne; Alois Kopp, of Lucerne; Joseph Bläsi, of Solothurn; and Olgiati, of Graubünden.

With the exception of Messrs. Niggeler and Olgiati, the judges-elect are at present members of the national assembly.

On yesterday the assembly elected Mr. Blumer as president, and Mr. Roquin as vice-president of the tribunal.

I am, &c.,

HORACE RUBLEE.

No. 619.

Mr. Upton to Mr. Fish.

No. 8.]

LEGATION OF THE UNITED STATES,
Berne, December 18, 1874. (Received January 9, 1875.)

SIR: I have the honor to state as follows: Yesterday the two houses of the federal assembly met in convention to elect a President and Vice-President of the Swiss Confederation for the ensuing year. Mr. Scherer, of Winterthur, was chosen President on the first ballot, having 102 out of 154 votes. Mr. Borel, of Neufchatel, was in like manner elected Vice-President, receiving 101 out of 150 votes. Mr. Welti was, according to custom, to have been the President, but it was desired that he should keep his present war department until the army is organized under the new constitution.

I am, &c.,

CHAS. H. UPTON.

No. 620.

Mr. Rublee to Mr. Fish.

No. 198.]

LEGATION OF THE UNITED STATES,
Berne, March 8, 1875. (Received April 2.)

SIR: I have the honor to inform you that the Federal Assembly met to-day to hold an adjourned session for the completion of business not disposed of during the regular session in December last.

Among the measures presented for consideration at this session are a commercial treaty between Switzerland and Denmark, and bills for laws relating to the issue and redemption of bank-notes, concerning the transportation of freights by railways, and providing for a uniform system of weights and measures.

The controversy with the Roman Catholic Church will also again occupy the attention of the Assembly, as two appeals are pending, one from delegates of the Catholic population of the diocese of Basle, and one from the Bernese Jura, asking for action on the part of the Assembly to protect the Catholics against alleged violations of their rights.

I am, &c.,

HORACE RUBLEE.

No. 621.

Mr. Rublee to Mr. Fish.

No. 200.]

LEGATION OF THE UNITED STATES,
Berne, March 22, 1875. (Received April 16.)

SIR: The Federal Assembly, after a session of two weeks, adjourned on the 20th instant, until its next regular meeting in June. Action upon a considerable number of the pending measures was postponed until that time.

The principal measure of the session, the bill providing for a law regulating the transmission of freights by railways and other public conveyances, after considerable discussion and various amendments, was passed.

The appeal by delegates of the Roman Catholic population of the diocese of Basle against the action of the diocesan conference in declaring the bishopric vacant gave rise to a long debate. The party favoring the appellants in the National Council no longer demanding, as at first, the unconditional restoration of the deposed bishop, and the recognition under and by virtue of the guarantees extended to the Catholic Church in the constitutions of the cantons of the canon law as a part of the public law, so far modified their position as to ask only the friendly interposition of the federal authority with a view to effecting some compromise between the governments of the cantons comprised in the diocese and the church by which the existing differences might be removed or modified.

The majority, however, contended that the federal authority did not extend to the questions at issue; that the organization of the diocese was effected by an arrangement between the cantonal governments and the church, and that the existing differences were wholly outside of the federal jurisdiction. The appeal was therefore rejected by a vote of 80 to 25. Subsequently similar action was taken in the other house, the vote standing 20 to 15.

A more interesting question was raised by the appeal of the Catholics of the Jura district of the canton of Berne. On the 30th of January, 1874, the executive council of the canton of Berne issued a decree expelling ninety-seven ecclesiastics from the territory of the district, for refusing to obey the laws.

An appeal for the abrogation of this decree was addressed to the Federal Council, and was rejected by that body on the 26th of March, 1874. The Catholics now appeal from the decision of the Federal Council to the Federal Assembly, and, in so doing, invoke the provision of the new constitution, adopted since that decision, which declares that no canton shall expel a citizen from its territory.

In the discussion that followed it was stated that another appeal, raising this question of the applicability of the new constitution to the case, had been addressed to the Federal Council, and a delegate from Berne moved that, in view of this fact, no action should be taken by the assembly until the decision of the Federal Council had been given upon this new point.

The general tone of the discussion indicated an expectation that the decision would be adverse to the cantonal government, and that the expelled curés would be allowed to return. A member of the majority in the National Council, and a Protestant, M. Joly, of the canton of Vaud, criticised in strong language what he regarded as the severe and arbitrary policy adopted by the Bernese government toward the Catholics

of the Jura. Without asserting that the cantonal government had exceeded the limits of its constitutional power, he nevertheless regarded as an extreme exercise of that power its employment against a population numbering 65,000 souls in such a manner as to deprive them of their churches, compelling them to give way to a new form of worship, whose adherents were but a paltry minority, and to betake themselves to barns and sheds for the observance of their religious rites. Such a state of things could not long continue without serious prejudice to the honor and prosperity of the country, and some means ought to be found without delay to put an end to it.

Quite a sensation was produced by the declaration of a delegate from Berne, in reply to M. Joly, that if the federal authorities, by a retroactive application of the constitution of 1874, should attempt to annul the decree of expulsion, the government of Berne would have to consider whether or not it would submit. The menace was promptly rebuked by the President of the Confederation, who reminded the delegate that the canton of Berne was not sovereign in this affair, and that the pretension that it would not submit to the decisions of the federal authority was one that could not be tolerated. The motion to defer action on the pending appeal until the decision of the Federal Council is announced prevailed by a strong majority, though opposed by some of the leading members hostile to what is known as the ultramontane party.

This action was concurred in by the Council of States.

A meeting of about fifty of the members of the Assembly was held on the evening prior to the final adjournment, at which it was resolved to call an extraordinary session of the Assembly in case the Federal Council sustains the new appeal. An extraordinary session may be convoked upon the demand of one-fourth of the members of the National Council, and it is understood that the requisite number has been obtained. An early decision by the Federal Council is expected. The government of Berne will probably take an appeal, in case the decision authorizes the return of the expelled ecclesiastics to the Assembly, where the whole subject will be rediscussed and the questions at issue finally settled.

I have, &c.,

HORACE RUBLEE.

No. 622.

Mr. Rublee to Mr. Fish.

No. 204.]

LEGATION OF THE UNITED STATES,
Berne, March 29, 1875. (Received April 22.)

SIR: I have already alluded, in my dispatch No. 200, of the 22d instant, to an appeal pending before the Federal Council, from the Roman Catholic ecclesiastics expelled from the districts of the Bernese Jura by a decree of the cantonal government of Berne, dated 30th of January, 1874, demanding the revocation of that decree, on the ground that it is incompatible with the provisions of the new constitution which declare that no canton shall expel a citizen from its territory and that every Swiss has the right to settle (*niederzulassen*) in any part of Switzerland.

On Saturday, the 27th instant, the Federal Council issued an order inviting the government of Berne to report, at as early a day as possible, whether it proposes to continue in force for any considerable period

of time the decree in question; and, if so, to communicate the reasons which, in its view, render necessary the further maintenance of such an exceptional measure.

The council submits at the same time certain considerations touching the character of the decree of expulsion and its validity under the new constitution. It remarks that the provision of the former constitution authorizing the cantons to take suitable measures for the preservation of public order and of peace between the religious denominations within their borders related to extraordinary measures, to be continued in force for such time only as the occasion for them continued to exist. In the present instance it was only a question at what period the decree should be suspended. The view of the appellants that it became void at the moment the new constitution went into operation could not be admitted, the interests of public order requiring that measures adopted under the former constitution should not be set aside except this were possible without jeopardizing the attainment of the purposes they were designed to accomplish. Further, that, by the constitution, the federal authorities are invested with full competence to examine the measures adopted by the cantons for maintaining public order, and according to their judgment to sustain, to modify, or to revoke them.

This action of the Federal Council seems designed to spare, as far as possible, the susceptibilities of the Bernese government, and to avoid any occasion for convoking an extraordinary session of the Federal Assembly, by affording an opportunity for a postponement of its ultimate decision until about the time of the regular summer session. Meanwhile some of the prominent liberal journals of the country censure in severe terms the course of those members of the Assembly who united in the demand for the convocation of an extraordinary session in the event of a decision favorable to the ecclesiastics, as an attempt to exercise an undue influence upon the council.

It is pretty generally understood that with the exception of one member, who is a citizen of the canton of Berne, the council is favorable to the revocation of the decree.

I have, &c.,

HORACE RUBLEE.

No. 623.

Mr. Rublee to Mr. Fish.

No. 206.]

LEGATION OF THE UNITED STATES,
Berne, April 2, 1875. (Received April 22.)

SIR: I inclose herewith a French translation which I find in "Le Temps," a Paris journal, of an encyclical letter addressed by the Pope, on the 23d ultimo, to the Catholics of Switzerland.

It characterizes the so-called Old Catholics as the "new heretics," and warns the faithful, in the most earnest language, "to avoid their religious ceremonies, their teachings, their writings, and even contact with them." The Old Catholic clergy are denounced as "apostates," who are "to be held in horror, as strangers and thieves who come only to rob, to assassinate, and to ruin."

As to the Swiss government, it is charged with having passed laws "contrary to the divine constitution and the authority of the church."

A recent enactment of the Federal Assembly, on the subject of marriage, is especially reprobated as "opposed to the canonic prescriptions, and wholly annulling the ecclesiastic jurisdiction and authority," and the bishops are in consequence urgently admonished to instruct their flocks in the Catholic doctrine touching Christian marriage, in order that they may conform to the canonic laws on that subject.

The marriage law thus referred to requires that all marriages in Switzerland shall be solemnized before a civil magistrate, and withdraws the keeping of the registers of marriages, births, and deaths from the clergy. It has not yet gone into effect, as the period within which, under the so-called *referendum* clause of the new constitution, a demand may be made for its submission to a vote of the people has not expired. There are many citizens who approve its general purposes, to wit, obligatory civil marriage, and the removal of certain impediments to marriage now existing by virtue of the cantonal laws, who are dissatisfied with some of its details. Consequently an organization has been formed, embracing many Protestants and liberals, with the purpose of securing signatures to a demand for its submission to the popular vote, with a view to its rejection. The encyclical letter comes very inopportunistly for this movement. The public journals are already availing themselves of its publication to stimulate a feeling of jealousy against foreign interference with the domestic affairs of the country, and its immediate effect is likely to be the promotion of the union of nearly all, except the strictly Roman Catholic voters, in support of the measure so warmly assailed.

I am, &c.,

HORACE RUBLEE.

[From "Le Temps," April 1, 1875.]

We copy from the "Univers" a translation of an encyclical letter addressed by Pius IX to the bishops, the clergy, and the faithful of Switzerland:

"Pius IX, Pope, to his venerable brethren and dear children greeting and apostolic benediction:

"The machinations and the earnest and prolonged efforts which are constantly multiplied in Switzerland by the new heretics, (who style themselves Old Catholics,) for the purpose of deceiving the faithful and of causing them to abandon the faith of their ancestors, demand special solicitude and care on our part, proportioned to the extent of our apostolic charge, for the protection of the spiritual interests of our children. We are aware, venerable brethren, and we deplore it in the bitterness of our heart, that these schismatics and heretics, availing themselves of the schismatic laws which publicly oppress the religious liberty of the Catholics in the diocese of Bâle, and in other parts of this country, perform, under the protection of the civil authorities, the ministerial functions of their condemned sect, cause parishes and churches to be violently occupied by apostate priests, and spare neither fraud nor artifice to entice the children of the Catholic Church into their miserable schism. But as craft and deception have always been the chief characteristics of heresy, these sons of darkness must be placed among those to whom the prophet said, 'Woe to the rebellious children * * * that * * * trust in the shadow of Egypt: * * * Because ye despise this word and trust in calumny and tumult.'—Isaiah 30, 1, 2, 12. (*Fulgate.*)

"Their sole purpose is to deceive the unwary and lead them into error by their hypocrisy and dissimulation; they say openly that they by no means reject the Catholic Church and its visible head; they even declare that they adhere to the pure Catholic doctrine; that they are the inheritors of the faith and the only true Catholics, while in reality they refuse to recognize all the divine prerogatives of the vicar of Jesus Christ on earth, and to submit to his supreme authority. We even know that for the purpose of disseminating their heretical doctrines several of them have taken it upon themselves to teach sacred theology in the University of Berne, hoping thereby to gain over some young Catholics to their condemned faction.

"We have already reprobated and condemned this wretched sect, which has taken from the arsenal of the old heresies so many errors against the fundamental principles

of the Catholic faith; it attacks the very foundations of the Catholic religion; it boldly rejects the dogmatical definitions of the Vatican council, and labors, by all the means in its power, for the destruction of souls.

"By our letters of November 21, 1873, we openly announced and declared that these miserable sectarians, together with their partisans and abettors, were excluded from the communion of the church and were to be regarded as schismatics.

"We now publicly reiterate this declaration, and we deem it to be our duty, venerable brethren, to urge you to exert all your well-tried zeal, all the courage which you have so gloriously shown in your conflicts for the cause of your Divine Master, and all the means at your command, in order to preserve the unity of the faith among the faithful who are under your charge, and to remind them incessantly that they must keep aloof from these dangerous enemies of Christ's flock, and from their poisoned pasture; that they must shun their religious ceremonies, their teachings, the pestilent pulpits from which they have the audacity to preach in order to betray the sacred doctrines, their writings, and all contact with them; that they must have no relations and hold no communication with the interloping and apostate priests who dare to perform the functions of the ecclesiastical ministry, and who have no jurisdiction whatever, and no legitimate mission; that they must regard them with horror as strangers and thieves who come but to steal, murder, and destroy.

"The children of the church must bear in mind that this conduct is enjoined upon them in order that they may preserve the most precious treasure of the faith, without which it is impossible to please God, and that by this strait path of righteousness they may at last reach the consummation of faith, which is the salvation of good souls.

"We also know that the civil authorities in your country, not content with having passed various laws which are at variance with the divine constitution and the authority of the church, have enacted others which are opposed to the canonical prescriptions concerning Christian marriage, and which set entirely at naught the authority and jurisdiction of the church.

"We therefore earnestly exhort you, venerable brethren, to expound to the faithful under your charge, by these timely instructions, the Catholic doctrine touching Christian marriage, and to remind them of what we have said concerning this sacrament in our apostolical letters and allocutions, especially those of September 9 and 27, 1852. They will thus better understand the sanctity and the virtue of this sacrament, and, by piously obeying the canonical laws on this subject, they will avoid the evils which are wont to befall families and human society when the sanctity of marriage is disregarded.

"As to you, our dear children, whose duty it is not only to sanctify yourselves, but to sanctify and save others, we hope in the Lord that, in the midst of the snares of the wicked, and the dangers which threaten you, unshaken in the piety and zeal of which you have given so many brilliant proofs, you will be a source of great comfort and a strong support to your bishops. Under their direction you will labor with courage and firmness for the cause of God and of the church, and for the salvation of souls. You will sustain the courage of the faithful, support the faltering, and daily increase the rewards which your patience, your priestly constancy, and your courage are winning for you at the hands of God. Heavy is the burden of the trials which must be borne by the ministers of Christ; but our confidence must be in him who has overcome the world, who supports those who labor in his name, and in who has laid up for them in heaven a crown of glory that fadeth not away.

"And you, our dear children, the faithful of all Switzerland, we address to you the expression of our paternal solicitude for your salvation. You all know how great a treasure God has given you in the Catholic faith. Spare neither pains nor labor in order faithfully to preserve this precious gift, and to keep intact and whole the glory of the ancient religion which you have received from your forefathers. It is for this that we constantly urge you to adhere closely to your lawful pastors, who have been legitimately authorized to minister unto you by this Apostolic See, and who watch for the salvation of your souls, for which they must give an account to God.

"Have these words of eternal truth constantly before your eyes: 'He that is not with me is against me, and he that gathereth not with me scattereth abroad.' Receive his doctrine with docility; love his easy yoke. Put far from you with horror those of whom our Redeemer said, 'Beware of false prophets, which come to you in sheep's clothing, but inwardly they are ravening wolves.' Resist courageously in the faith the old enemy of the human race 'until the right hand of Almighty God shall break all the armor of the demons who are permitted to dare to accomplish something to the end that the victory of Christ's faithful ones may be all the more brilliant, * * * because where truth reigns supreme comfort from on high is never wanting.'"

"We have thought it our duty to write these things to you, venerable brethren and dear children, in order to fulfill the duty of our supreme charge, which obliges us to guard the whole flock of Christ from all danger of error, and to labor for its salvation and for the unity of the faith and of the church. But inasmuch as every perfect gift

* St. Leo; letter to priest Martin.

cometh from on high from the Father of lights, we earnestly pray Him to give you strength for the conflict, and to cover you with His shield and His protection. May He vouchsafe to look with favour upon your country. May error and ungodliness disappear from it, so that it may enjoy the fruits of truth and righteousness in peace and repose. We do not meanwhile forget to pray to our Heavenly Father for these poor misguided ones, that they may cease to treasure up unto themselves wrath against the day of wrath, and revelation of the righteous judgment of God, and that, turning aside from their error, they may sincerely repent while it is yet time.

“Join your fervent prayers to ours, venerable brethren and dear children, that we may receive mercy and divine grace; and receive the apostolic blessing, which we give unto each and all of you, with love in the Lord, from the bottom of our heart, as an earnest of our particular affection.

“Done at Rome, near St. Peter, on the 23d day of March, of the year 1875, in the twenty-ninth year of our pontificate.

“PIUS IX, Pope.”

No. 624.

Mr. Rublee to Mr. Fish.

No. 218.]

LEGATION OF THE UNITED STATES,
Berne, May 27, 1875. (Received June 18.)

SIR: The people of Switzerland have just availed themselves, for the first time, of the provision of the constitution adopted last year, which requires that any measure enacted by the Federal Assembly shall be submitted to the popular vote for acceptance or rejection, upon the demand of thirty thousand voters, or of eight cantonal governments.

Such a demand was made in April last respecting two measures enacted at the late session of the assembly, one in relation to marriage and the other concerning the elective franchise.

I have already alluded, in my dispatch No. 206, of April 2, to the formidable opposition then organizing against the proposed law, introducing obligatory civil marriage and withdrawing the keeping of the civil registers from the clergy. Instead of thirty thousand electors, over one hundred thousand united in calling for the submission of the measure in question, and at the same time of an act concerning the elective franchise, to a vote of the people.

The election held in consequence occurred on Sunday, the 23d instant. It resulted in the adoption of the law respecting marriage by a majority of about eight thousand, and in the rejection of the act respecting the elective franchise by a majority of a little more than four thousand; the aggregate vote being something over four hundred thousand.

Both measures were favored by the government and by the great majority of those who voted for the adoption of the revised constitution last year. The supporters of the proposed marriage law availed themselves of the opportunity afforded by the Pope's encyclical letter, condemning it, to address appeals to the prejudice of the electors. Jealousy of ultramontane influences and the fear of contributing to what might be claimed as an ultramontane victory secured, without doubt, a considerable number of votes for the law, which, without such apprehensions, would have been cast against it. An important contingent of the conservative Protestant voters joined with the Roman Catholics in rejecting it. The provision of the law withdrawing the keeping of the civil registers from the clergy was objected to by many Protestants, it being alleged that in many parishes it would be difficult to find any person except the clergyman properly qualified to perform that duty. The increased facilities for divorce afforded by the law, and a provision authorizing persons who have attained the age of twenty years to marry without the consent of their parents, were strongly condemned.

In the main, however, this measure undoubtedly constitutes a real and wholesome progress. It introduces a uniform regulation in the place of the diversified, conflicting, and often oppressive legislation of the cantons on the subject; and, henceforth, the marriage of a Swiss citizen in conformity with it, or, if married in a foreign country, in conformity with the local law of such country, will be recognized as valid throughout Switzerland, which hitherto has not been the case.

The act concerning the elective franchise encountered no religious prejudices, but was so bold an innovation upon the traditional views and policy of the Swiss people, that a large proportion of the conservative sentiment of the country was arrayed against it.

Hitherto, in most of the cantons, many obstacles and considerable delays have been affixed to the admission of Swiss citizens, removing from their native canton and commune, and establishing themselves in another, to a participation in cantonal and communal elections. The act in question provided that any Swiss citizen of twenty years of age, sojourning or established in a canton other than that in which he was born, should, if established, (*établé*,) be entitled to participate in such elections after a residence of three months, if sojourning (*en séjour*) in cantonal elections after a period of three months, and in communal elections after six months. In several of the cantons, at present, the native citizens are only entitled to vote at such elections upon attaining the age of 21, and in some of 23 years.

The federal constitution declares that a federal law shall define the difference between *establishment* and *séjour*. The National Assembly, while this act was pending before it, attempted to incorporate in it such a definition. The diversity of views as to the precise definition of the two words was so great, however, that no agreement was reached, and that section of the proposed law was stricken out. The objection was, of course, made afterward, that the local authorities would be subject to the same differences of opinion which prevailed in the Assembly, and that a variety of interpretations would be given to the two terms, until their meaning was settled by the only competent authority.

In most, if not in all of the German cantons, bankrupts are at present disfranchised. The proposed law restored the elective franchise to such persons, and provided that, in future, it should be withheld from those only who might be found guilty of fraudulent bankruptcy, and disfranchised by judicial sentence. It is estimated that this provision of the law would have added the names of 12,000 persons to the list of voters in the single canton of Berne. It further gave the franchise to paupers, except to such as were reduced to that condition by dissolute or idle habits, and annulled the local laws, which in many places exclude all but tax-payers from participation in communal elections.

The rejection of a measure proposing such brusque innovations upon the existing order of things would, doubtless, have been far more emphatic but for the operation of party feeling, which sometimes leads men to sacrifice their own opinions rather than see them carried into effect by political opponents. The same influences organized the opposition to both the marriage and the suffrage act; the same elements which, last year, opposed the adoption of the new constitution, were most ardent in their hostility to both measures; and the cry was raised, not without effect, that the rejection of either would be a triumph for the cantonal and reactionary parties.

I have, &c.,

HORACE RUBLEE.

No. 625.

Mr. Rublee to Mr. Fish.

No. 221.]

LEGATION OF THE UNITED STATES,
Berne, June 4, 1875. (Received July 2.)

SIR: I have, in a former dispatch,* mentioned the appeal to the Federal Council of certain Roman Catholic ecclesiastics expelled by the government of the canton of Berne, in January, 1874, from the districts of the Jura, for persisting in recognizing Mgr. Lachat as the bishop of the diocese, contrary to the authority of the diocesan conference and of the government of the canton, as well as the order of the Federal Council of March 27, 1875, relating thereto.

The Federal Council, seeking to spare, as far as possible, the susceptibilities of the cantonal government, withheld any definite expression as to the validity of the decree of expulsion, and suggested to the Bernese government whether the time had not arrived when the decree could be properly revoked. The way was thus left open for the canton to settle the affair without any appearance of acting under the compulsion of a higher authority. It did not, however, accept the opportunity afforded.

Although the grand council or cantonal legislature met for its regular spring session but a few days after this action of the Federal Council, the affair of the expelled ecclesiastics was not taken up, the executive council declaring that further legislation for the security of peace between the different religious sects was necessary before the decree of expulsion could be safely revoked, and that it would not be possible to prepare and act upon a suitable measure on the subject before the autumn session of the grand council.

As the measure, after receiving the sanction of the legislative body, would still need to be submitted to and accepted by the people of the canton before it would become a law, nearly a year would elapse before, under the most favorable circumstances, the cantonal government would feel itself in a position to take action respecting the re-admission of the exiled ecclesiastics.

The Federal Council, however, has refused to assent to this indefinite delay, and, by an order, dated May 31, has pronounced the decree of expulsion incompatible with the existing constitution, and directed the government of Bern to revoke it within a period of two months. This delay is conceded in consideration of the fact that the decree was issued under the constitution of 1848, and that its validity at the date of its enforcement is not denied. Hence, the Federal Council holds that it was not annulled *ipso facto* by the adoption of the constitution of 1874, but that the necessary time must be allowed the government of Berne for effecting its recall without endangering public order. Some sharp criticisms have been made on this view of the question, and a good deal of irritation exists in the canton with reference to the action of the Federal Council, but mostly of a sullen and undemonstrative character.

In the mean time, the executive council of Berne has called an extraordinary session of the grand council for the 11th of June, and it is understood that an appeal will be taken from the Federal Council to the Federal Assembly. As far as I can ascertain, the general opinion is that the appeal will not be sustained; but it will be useful as affording a settlement by the highest authority of the construction of the constitution upon the points involved in this controversy. Of these, the prin-

* Mr. Rublee's No. 200, *ante*.

cial relates to the proper interpretation of article 50, which empowers "the cantons and the confederation to adopt the necessary measures for the maintenance of public order and peace between the different religious communities, as well as against the encroachments of the ecclesiastical authorities upon the rights of the citizens and of the state."

The Federal Council declares that the article in question only authorizes such measures as are not in conflict with the principles laid down and the rights guaranteed by the constitution. Those who sustain the constitutionality of the decree of expulsion argue, on the other hand, that article 50 was designed to apply to exceptional crises in the relations between church and state, and that it warrants the adoption of any measure which the state, in its discretion, may deem proper to secure its imperiled authority or to protect the rights of its citizens. Against the possible abuse of such discretionary power by the cantons, they assert that the admitted supervisory authority of the confederation affords a sufficient guarantee.

The Bund, the leading journal of the canton of Berne, while disagreeing with the views and action of the Federal Council, opposes an appeal from its decision. Such an open conflict between the government of the largest canton and the federal authorities would be, in its opinion, a political mistake, since, whatever might be the result, it would necessarily impair the consideration and influence of the one or the other, and would introduce dangerous dissensions in the ranks of the liberal party of Switzerland.

I have, &c.,

HORACE RUBLEE.

No. 626.

Mr. Rublee to Mr. Fish.

No. 223.]

LEGATION OF THE UNITED STATES,

Berne, June 16, 1875. (Received July 8.)

SIR: The question that has arisen between the government of the canton of Berne and the Federal Council, in regard to the constitutionality of the decree by the former, expelling certain Roman Catholic ecclesiastics from the districts of the Jura, has largely occupied public attention in Switzerland during the past week.

The regular summer session of the Federal Assembly opened on Monday, the 7th instant. On the following day a call was published by the central committee of the *Volksverein*, for a mass-meeting to be held in the city of Berne, on Sunday, June 13, to protest against the decision of the Federal Council pronouncing the continued expulsion of the ecclesiastics incompatible with the existing constitution. The *Volksverein* is an organization which includes a large and influential section of the liberal party of Switzerland. Last year it rendered effective service in securing the adoption of the new constitution. The appearance of a call issued by the central committee of a society of so much political importance, for a popular demonstration against the administrative authorities of the national government, naturally gave rise to considerable solicitude. Regarded as an attempt to influence, by outside pressure, the action of the Federal Assembly upon the appeal from the Federal Council, which the Bernese government was preparing to make, the call

immediately encountered the severe condemnation of several liberal journals in other cantons, and met with so much hostile criticism, that its authors were led to modify its terms, and to disavow any purpose of seeking to intimidate the Assembly. They announced that the demonstration would confine itself to a simple manifestation of the approval with which the people looked upon the course of the government of Berne, in its conflict with the ultramontane clergy.

The meeting was held at the appointed time, and was sufficiently large to indicate the existence of a strong popular sympathy with the cause of the cantonal government. A procession numbering about 3,000 persons, consisting of delegations from various parts of the canton of Berne—the attendance from the Jura district being especially large—from Geneva, Neuchatel, and Solothurn, passed through the principal streets, with numerous banners and bands of music, and proceeded to an open space outside of the city, where arrangements had been made for speakers to address the people. The size of the meeting was variously estimated at from 6,000 to 10,000. The speeches were short and moderate in tone. The speakers asserted the right of the people to meet and discuss public questions, declared their adhesion to the policy adopted by the government of Bern in its conflict with the church of Rome; their dissent from the construction given to article 50 of the constitution by the Federal Council, their desire for an authoritative decision on the subject by the Federal Assembly, and their hope that the Assembly would give it such an interpretation as would not be incompatible with effective measures to thwart the plottings and repress the disturbances incited by the ultramontanes. At the same time they called attention to the fidelity which had always marked the conduct of Berne in its relations with the confederation, and declared that the canton would yield a prompt and cheerful submission to the decision of the Assembly, whatever it might be.

After the speeches, resolutions were adopted, approving the action of the cantonal government, and declaring that the expulsion of the disobedient ecclesiastics was fully justified by the circumstances and is warranted by the federal constitution of 1874 and the cantonal constitution of 1846.

No person of any considerable political prominence took part in the demonstration.

While this popular manifestation was in preparation, the government of Berne was taking steps to bring its appeal before the assembly. The grand council convened in extraordinary session, met on the 11th, and considered the bill presented by the government for a law in regard to the preservation of peace between the different religious communities. This was adopted upon the first discussion, and final action upon it postponed until the regular session in September next. The following day the appeal from the Federal Council to the Federal Assembly, as prepared by the government, was approved by a vote of 177 ayes to 24 noes. This appeal, which was presented to the Assembly on the 14th instant, declares that the construction given by the Federal Council to article 50 of the constitution leaves the cantons without the necessary power to deal with the disturbing influences of the clergy, and details, at some length, the unsettled condition of the Jura districts, the violence of a part of the Roman Catholic population, and the dangerous power over them exercised by the priesthood.

It is not yet certain whether the Federal Assembly will take action on the appeal at its present session. An early decision, is however, strongly urged by those opposed to Berne, since the appeal suspends

the order of the Federal Council of the 31st May, until it is determined, and the result of non-action upon it during the present session, would be to leave Berne at liberty to maintain the expulsion of the ecclesiastics until next winter, and until after the election of a new Federal Assembly and Federal Council.

I am, &c.

HORACE RUBLEE.

No. 627.

Mr. Rublee to Mr. Fish.

No. 230.]

LEGATION OF THE UNITED STATES,
Berne, July 3, 1875. (Received July 26.)

SIR: The controversy between the government of the canton of Berne, and the federal council, respecting the decree of the former expelling certain Roman Catholic ecclesiastics from the districts of the Jura, has been authoritatively settled by the national assembly, during the session which terminated to-day.

In my dispatch No. 223, of June 16, I informed you that that the government of Berne had taken an appeal to the assembly from the order of the Federal Council requiring the cantonal government to revoke its decree of expulsion within two months from the 31st of May last. The appeal took exception to the construction given to article 50 of the constitution by the Federal Council, and further, to the shortness of the period allowed for the revocation of the decree of expulsion. It asked for such an extension of the time as would enable the canton to adopt additional legislation for the prevention of disturbances of the peace, which, it was apprehended, might follow upon the return of the proscribed ecclesiastics.

The committee to which the appeal was referred by the assembly, submitted a report, accompanied by a preamble and resolutions that were accepted by the Federal Council, and subsequently adopted by large majorities in both the chambers.

The settlement thus made of the affair is a species of compromise. It sustains the construction given to the constitution by the Federal Council, by declaring that "the necessary measures" which article 50 authorizes the cantons to adopt for the maintenance of public order and religious peace, must be taken within the limits of the constitution; in other words, that this article gives no discretionary authority to the cantons, upon the plea that such action is necessary for the preservation of peace between the different religious communities, to disregard the rights and liberties guaranteed by the constitution.

On the other hand, the canton of Berne is allowed to postpone the revocation of the obnoxious decree until the middle of November next.

The resolutions gave rise to long discussions in each of the chambers. The more radical party strenuously contended against the interpretation given to article 50. The Catholic party objected to any further extension of the period allowed for the revocation of the Bernese decree. In the end, however, when the final vote was taken, all, except the Roman Catholic members, united in their adoption.

I have, &c.,

HORACE RUBLEE.

TURKISH EMPIRE.

OTTOMAN PORTE.

No. 628.

Mr. Cadwalader to Mr. Boker.

No. 205.]

DEPARTMENT OF STATE,
Washington, August 13, 1874.

SIR: I transmit a copy of a letter of the 10th instant from Messrs. Laforme & Frothingham in relation to the interdiction by the Turkish government of the sending of telegraphic messages in cipher to or from the United States.

If upon inquiry you find that such an interdiction has been made, you will informally exert your good offices to secure the exemption from the rule of the American mercantile firms engaged in commerce between the United States and the Turkish dominions, as it must be for the mutual interest of the two countries to remove rather than create obstructions to commercial intercourse between them.

The sentiments entertained by the Government and people of the United States toward the Ottoman Empire are so friendly that it would be difficult to imagine any political cause for the adoption of a prohibition such as no other foreign nation has adopted in relation to the mode of telegraphic communication between the merchants of the United States and their correspondents abroad.

It is possible that this movement may have been brought about by parties interested in the profits of telegraphic cables, with the view to compel merchants to resort to the more costly form of communication usually employed; but it is believed that you will be able to satisfy the authorities that the evils and disadvantages of the prohibition would greatly counterbalance any benefits that might result from it, so far as it affects intercourse with this country.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

[Inclosure to No. 205.]

*Messrs. Laforme & Frothingham to Mr. Fish.*BOSTON, *August 10, 1874.*

SIR: We desire to call the particular attention of your Department to the prohibition placed by the Ottoman government on the transmission of telegraphic messages in cipher to or from the United States. This prohibition is a source of great inconvenience to merchants doing business with Turkey, inasmuch as it compels them either to be burdened with an enormous expense in using the telegraph, or to limit the number of their messages, and curtail their advices to an injurious extent. The Ottoman government claims that there are serious considerations for maintaining this prohibition, but of what nature we have not been able to ascertain. If, in reality, any practical advantages are gained by that government in establishing such a prohibition, we would not complain, but we can discover none whatever. It seems to us as unjustifiable, above all in time of peace, to prohibit secret messages by telegraph, as it would

be to forbid the transmission of sealed letters by mail. Provided there is no serious objection to doing so, we would feel greatly obliged if your Department would instruct the minister of the United States near the Sublime Porte to protest against the maintenance of the prohibition in question, and to take measures for its removal.

We are, sir, very respectfully, your obedient servants,

LAFORME & FROTHINGHAM.

Hon. HAMILTON FISH,

Secretary of State, Washington, D. C.

No. 629.

Mr. Boker to Mr. Fish.

No. 276.]

LEGATION OF THE UNITED STATES,
Constantinople, March 9, 1875. (Received April 2.)

SIR: I have the honor to say that the attention of the Department may have been attracted to a report made current by the American and the British newspapers, to the effect that it was the intention of the Ottoman government to suppress the Protestant schools throughout the empire, and that efforts to that end had already been set afoot in the province of Syria.

As the officials at the Sublime Porte have always unhesitatingly denied any such intention, both to the British ambassador and to myself, I thought it advisable to instruct Mr. Baraczi, on his recent visit to Syria, to investigate the matter, so far as that province was concerned, and to communicate the result of his observations to the legation.

From Mr. Baraczi's report—a copy of which I herewith inclose—it will be seen that no Protestant schools have been closed, nor has any attempt to close them been made by the Ottoman government, although I can say, of my own knowledge, that many of them were opened without having received the permission from the authorities required by the law of this country.

It seems to me that the statement of those two facts should relieve us from all concern on the subject, for governments and their representatives can have nothing to do with undeveloped and disavowed intentions. There is no doubt that there exists great popular hostility to the Protestant schools of Syria, which are generally conducted, or have been established, by American and British missionaries; but this opposition, in almost all cases, owes its origin to the fanaticism of the native Christian sects, and rarely to the antagonism of the indolent Mussulmans.

There is hardly one Turk in a year converted to Christianity of any kind, so that the converts to Protestantism are, as a rule, recruited from those native Christians who, under various sectarian names, lean toward the discipline of Catholicism in subjecting themselves completely to priestly domination.

The clergy and the notables of the native Christian sects, who hate Protestantism, which they call atheism, more than the faith of Islam, and who sit in the councils of the local communes, in which the Protestants have no representation, often use the pliant Turks as cat's paws, or carry them along in the current of good-fellowship toward measures directed against the Protestants, or cunningly devised to incite popular odium and even violence against them. I have, however, seldom been called upon to deal with one of those constantly-recurring difficulties between the American missionaries and the natives of Turkey which could be traced to a Mussulman origin. Now and then a

good-natured Turk blunders into such an affair, but he is usually the surprised victim of a priestly intrigue, and not seldom the most innocent of all the parties concerned, while he is ever a willing, and, if unnoticed, grateful fugitive.

As the report of Mr. Baraczi will give the Department full information as to the true condition of a matter which has attracted great attention in the religious world, both in the United States and in Great Britain, it will not be necessary for me to continue the subject.

I have, &c.,

GEO. H. BOKER.

[Inclosure in No. 276.]

Mr. Baraczi to Mr. Boker.

CONSTANTINOPLE, *March 4, 1875.*

SIR: I have the honor to state that, while I was in Syria, the American missionaries complained that the Turkish government persecuted the Protestants in Syria, and, in order to prevent the conversion of the people to Christianity, it not only submits the converts to a hard and unjust treatment, but recently directs all measures against the missionaries themselves.

The principal points of their complaints are—

First. That the custom-house authorities make great difficulties in letting pass, free of duty, the goods destined for the private use of the missionaries.

Second. That the government made difficulties about the establishment of a printing-press connected with the Bible-house at Beirut.

Third. That it refused to grant the permission to practice to the graduates of the medical college at Beirut.

Fourth. That their elementary schools had been closed by the Ottoman authorities.

The latter complaint having filled almost all the newspapers of America and Europe, I felt it my duty to examine it. The other three questions having previously been brought to the knowledge of the legation, I found no object in investigating them.

The results of my inquiries, in reference to the question of the elementary schools, do not coincide with the exaggerated and perverted statements published in so many papers. I found that while one part of the population of Syria is friendly to the missionaries, because they feed and clothe their children, the greater part, the Mussulmans, are the most implacable foes of the foreign teachers, who, according to their opinion, sap the foundations of Islamism. This fanatic part of the inhabitants accused the missionaries of promising foreign protection and exemption from military service to those who would become Protestants; of sending the daughters of the Ansayrich inhabitants to America; and of founding schools without asking the authorization of the government, as they are required to do by the laws of the country.

The two former complaints afforded no reasonable ground for a formal proceeding, but the third accusation was brought to the knowledge of the Sublime Porte, which instructed the governor-general of Syria to put a stop to such abuses and to prevent the missionaries from building and opening schools without the permission of the government.

Halet Pasha, the governor-general of Syria, addressed a circular to the governors under his jurisdiction, ordering them to watch that no schools be built and opened by *foreigners* without previous authorization of the Ottoman government. The governors transmitted this order to the caïmmakams of their districts, who communicated it to the consular officers, on whom the schools depended.

I herewith inclose a copy of a communication sent by the caïmmakam of Latakia to the United States consular agent at the same place.

The note of the caïmmakam contains a request to stop the building of schools, and to close those which had already been opened. But the latter part of his communication is only an explanation of the order received from the governor of Tripoli, which is repeated in the first part of the said communication. An ambiguous Arabic word made the caïmmakam believe that the schools already existing should be closed, while the order really said, "to prevent the building and opening of schools by foreigners."

As far as I could ascertain, no American school in Syria was closed by force, and the above communication arrived a long time after the schools had been closed by the missionaries themselves for reasons entirely independent from the above orders.

Still the communication of the caïmmakam of Latakia was termed everywhere a governmental measure by which the Protestant schools in Syria had been closed.

The real reasons for closing the schools are the following:

The greatest part of the converts to Protestantism consist of Ansayrichs, who embraced Christianity in order to escape certain obligations imposed on them by the Ottoman laws. It was impossible for me to find out whether this hope was fostered by the missionaries or not. When the converts heard that three conscripts were taken out even of the American school at B'hamra and sent to Damascus to do military service, they lost all confidence in the power of the missionaries. After waiting some time, and when they saw that the conscripts did not come back from Damascus, they deserted their new faith. Reports of cruelties exercised by Turkish officials and soldiers against the Protestant conscripts contributed very much to intimidate and determine them to remain on a better footing with the Ottoman authorities, which they had ignored up to that time. So, in the spring of 1874, the chapels and schools of the missionaries counted but very few visitors. The elders and notables of some villages, in order to get entirely rid of the missionaries, addressed a petition to the caïmmakam of Djebleh, asking the expulsion of the missionaries and closing their schools. The caïmmakam, of whose order I inclose a copy, took into consideration only the latter part of their request, and authorized them only to prevent their children from going to school and to abstain from all intercourse with the missionaries, so as to compel them to go whence they came. The school at Bahloolich was consequently abandoned in June, and the benches of the school of B'hamra became empty about the same time, and, as the schools already existing remained empty, there was no inducement to the missionaries to continue building new schools.

The communication of the caïmmakam of Latakia arrived only three months after these events had taken place. Whatever might have been its contents, it could not effect the closing of schools which were not open.

While I repeat that no violent act took place on the part of the Ottoman authorities in regard to Protestant schools, which is proved best by the medical college and preparatory school at Beirût, which have never been molested, I leave it to your appreciation to decide whether the proceedings above stated were illegal or not.

I have the honor to be, sir, with great respect, your most obedient servant,
G. BARACZI.

Hon. GEORGE H. BOKER,
United States Resident Minister, Constantinople.

[Subinclosure 1 in No. 276.—Translation.]

Order of the Caïmmakam of Djibleh.

TWENTY-THIRD REBI'EL COOEL 1290. (May 5, 1874.)

To the Elders and Notables of the Village of Bahloolich:

We have read your report asking that the schools established in your village by American missionaries should be abolished, because the instruction given in them by the Protestant teachers is contrary to the principles of your religion, and because said schools have not been established with permission from the imperial government, as should have been done. As you ignored in the beginning that the lessons given in those schools are contrary to your religion, and as it is improper to establish schools without the permission of the government, we have made the necessary representations in order to obtain the closing of said schools. As to you, you are instructed to prevent your children from going to those schools, and from associating with the teachers, so that they [the teachers] might move with their families to the place where they came from.

Be it known to you.

MOHAMMED SALEH,
Caïmmakam of Djebleh.

[Subinclosure 2 in No. 276.—Translation.]

The Caïmmakam of Latakia to the United States vice-consul.

SEVENTEENTH SABA'N 1291. (September 16, 1874.)

To our honored friend the Vice-Consul of the mighty United States of America, at Latakia:

We have the honor to receive an order from the high government, (at Tripoli), which has been sent in consequence of an order of the government-general at Damascus, based upon an order from the Sublime Porte. The substance of the said high order is that constant care be taken to prevent the building and opening of schools by foreigners, whosoever they may be. We, therefore, inform you that you are requested to do

your best to prevent the subjects of the Government which you represent from doing anything of the kind. And if anything of the sort has taken place, you will be kind enough to stop it, and to close the schools already established, and to inform me of the measures you take in that respect. Hoping that you will kindly acknowledge the receipt of this communication, I seize this opportunity to assure you of my sincere friendship.

[L. s.]

ABDELRAHMAN NADJIM,
Caimmakam of Latakia.

No. 630.

Mr. Goodenow to Mr. Fish.

No. 4.]

LEGATION OF THE UNITED STATES,
Constantinople, May 7, 1875. (Received June 1.)

SIR: Herewith I have the honor to transmit a copy of a communication addressed to Mr. Boker by the American missionaries and teachers in Robert College, residing here, just before his departure from Constantinople. Mr. Boker expressed his acknowledgments to the deputation who presented the communication in suitable terms.

As an evidence of the very high esteem in which Mr. Boker was held by his colleagues, as well as by the public in Constantinople, I may mention the fact that the English, French, Russian, and Austrian ambassadors and the Persian minister took leave of him on board the steamer. I have, &c.,

J. H. GOODENOW.

[Inclosure in No. 4.]

The American missionaries to Mr. Boker.

CONSTANTINOPLE, *May 1, 1875.*

DEAR SIR: As American citizens residing in Turkey, we desire to express to you our appreciation of the uniform courtesy and kindness which have marked all your intercourse with us during the period in which you have so ably represented our Government at the Sublime Porte.

We are sensible, to some degree at least, of the embarrassments of your position, and the difficulties which you have had to encounter in the performance of your duty in defending the rights of American citizens residing within the bounds of the Ottoman Empire. You have frequently had to meet with vexatious delays, postponements, and prevarications, complicated, also, in some cases by restrictive instructions from home; and we feel that we are doing but simple justice to acknowledge our indebtedness for efforts which, even when not successful, were earnest and well directed, and which, in so many instances, have gained the results that were sought. The honor of the American name and the dignity of the American legation have not suffered at your hands.

Permit us to assure you that in leaving this post for one of higher diplomatic rank, you bear with you our sincere congratulations, together with our best wishes for your personal welfare and your official success.

We remain, your sincere friends and well-wishers,

ALBERT A. LONG.
GEO. W. WOOD.
EDWIN E. BLISS.
SANFORD RICHARDSON.
T. R. GREENE.
HENRY O. DWIGHT.
LEWIS R. WEBER.
GEORGE WASHBURN.
EDWIN A. GROSVENOR.
GEO. T. HERRICK.
EDWIN M. BLISS.

Hon. GEO. H. BOKER.

Mr. Maynard to Mr. Fish.

No. 7.]

LEGATION OF THE UNITED STATES,
Constantinople, June 30, 1875. (Received August 5.)

SIR: I have the honor to inform the State Department that the Ottoman government has thought proper to transmit to me through the minister of foreign affairs certain executive orders, or, as they are termed, circulars, with a request that they be made known to our fellow-citizens.

As I have no means of promulgating them, I transmit copies of the original French, with translations, for such action as the Department may deem proper.

The first, dated June 12, instant, interdicts the export of cereals from certain districts; the second, dated June 30, instant, interdicts the export by sea of corn and corn-meal from certain ports; the third, dated June 12, instant, is an interdiction to the introduction into Turkey of arms, munitions of war, and revolvers; the fourth, dated June 12, instant, is of a graver and more important character. It puts a censorship upon the press, which, in the language of one of my colleagues, carries us backward centuries.

I have received the protest of certain of our citizens resident in the Ottoman Empire, a copy of which is inclosed. The printing question is likely to be seriously discussed.

I am, &c.,

HORACE MAYNARD.

[Inclosure 1 in No. 7.—Translation.]

Safvet Pasha to Mr. Maynard.

CIRCULAR 1, FORBIDDING THE EXPORT OF CEREALS.

In consequence of the bad condition of the harvests in the districts of Yeni-Bazar, Mitrovitza, and Senidje in Bosnia, where the insufficiency of food even for the inhabitants has been ascertained, the local authorities found themselves under the necessity of interdicting, until further information, the exportation of cereals from the said districts.

It is understood, however, that exceptions will be made in favor of contracts entered into previously to this prohibition.

Having the honor to bring this measure to your knowledge, I request you to give your orders so as to secure its execution on the part of American citizens.

SAFVET.

[Inclosure 2 in No. 7.—Translation.]

Safvet Pasha to Mr. Maynard.

CIRCULAR 2, FORBIDDING THE EXPORT OF MAIZE AND FARINA OF MAIZE.

In consequence of a persisting drought, and in view of the wants of the population, the authorities of Samsoun have deemed it necessary to interdict for one month from the 15th of June (O. S.) the exportation by sea from the districts of Unia and of Fatsa, of maize and of the farine of maize.

This measure has already been brought to the knowledge of the consuls of Samsoun. I now, on my part, beg you to give your orders so as to secure its observance by the American citizens.

SAFVET.

[Inclosure 3 in No. 7.—Translation.]

Safvet Pasha to Mr. Maynard.

CIRCULAR 3, INTERDICTING THE IMPORTS OF ARMS AND MUNITIONS OF WAR.

You are aware of the ordinances prohibiting the introduction of arms, munitions of war, and revolvers into the Ottoman Empire.

Some time, now, certain foreign merchants introduce into Turkey these forbidden articles, which are notwithstanding confiscated by the state.

In order to prevent any misunderstanding, and for the interest of commerce, I think it proper to request you to give such orders, that the American merchants shall observe strictly the regulations above indicated.

SAFVET.

[Inclosure 4 in No. 7.—Translation.]

CIRCULAR 4, REGULATING THE IMPORTATION AND PUBLICATION OF BOOKS AND PAMPHLETS.

[From the "Daily Levant Herald" of June 17.]

The Press Bureau has sent us the following official notification regulating the importation and publication of books and pamphlets in Turkey:

Acting under the advice of the council of state, the Porte has taken the following steps to prevent the importation of improper books, pamphlets, and writings into this country, as well as to restrain their publication within the limits of the empire. For the future the manuscripts of all works intended to be published at Constantinople must be submitted to the ministry of public instruction, which, if advisable, will give the provisional permission for it to be printed. When the work is completed, two copies, bearing the seal of the author and publisher, must be sent in to the same ministry. If, on examination, they are found to be exact reproductions of the original manuscript, one of the copies will be retained, and the other, bearing the seal of the council of public instruction, will be returned to the proprietor with a permission to publish. The title-page of every work must bear an indication showing whether the subject is religious or scientific, the authorization of the minister of public instruction, the names of the author or translator and publisher, the date of the impression, and the name of the printing-office. Publications coming from abroad or from the provinces will be detained at the custom-house. Those written in Turkish, Arabic, or Persian will be examined by the council of public instruction, and those in foreign languages by the press department and the custom-house officials. Works of an unobjectionable nature will be stamped with a seal bearing the word "authorized" as used by the press department for political publications, and by the ministry of public instruction for the others. Whoever forges this seal or wrongfully states on the title-page of a book, &c., that it is published with authorization without having really obtained it, will be punished according to law, without prejudicing the confiscation of such publications. All works judged to be of an improper tendency will be confiscated, and the authors and printers will be amenable to the penalties inflicted by the law. Newspapers will not be allowed to publish authorized works *en feuilleton*. Works imported into the provinces will be examined by the local authorities, who will deliver a declaration indicating the subject, the name of the authors, the owner and importer, the number of volumes, and finally stating whether the custom-house authorities think it fit to confiscate the work or allow it to pass.

[Inclosure 5 in No. 7.]

PROTEST OF AMERICAN CITIZENS.

DEAR SIR: We have received through Dr. Bliss, from you, a copy of the new regulations issued by the Sublime Porte for the better control of the book-trade, and have examined the same with great interest.

While anxious to obey the laws of the country where we live, and while acknowledging the protection afforded by its government to our business interests, it is but natural that if we find those interests imperiled by any new law, we should wish to call attention to the fact, especially as the imperial government has always been willing to submit new regulations affecting the established business of foreign residents to

the consideration of the legations, for their remarks or suggested amendments before actually enforcing them.

We conduct a book-business both as publishers and as importers, which is among the largest in the Turkish Empire. It is a business, painfully built up, step by step, at a large expenditure of capital, during forty years of time, until now it extends to all parts of the country, and we have books intrusted to our agents for sale in every vilayet.

Our stock in trade, in this city and in the provinces, embraces many thousands of copies of the works named in the accompanying catalogue, which as you will see contains about 300 titles. Moreover, we have now in press works in the Greek and Armenian character, in the printing of which we have conformed to the rules heretofore in force in relation to the manufacture of books, as, indeed, we always have done.

We feel sure that the Turkish government will acknowledge that an investment of capital of so long standing and of such amount; an investment made with their own consent at every step, should be protected from injury, as far as practicable, in the promulgation of new laws which are to govern it in future.

But the omission from these regulations of any provision for such protection is a point to which we would call your attention. As far as we can see, our books in stock, scattered as they are in remote parts of the empire, as well as those now in press, are in immediate danger of seizure as unauthorized. Cannot a clause be inserted in the regulations making a clear-dividing line between the books already published and now in press and those which will be liable to seizure for any failure to comply with this law? As, for instance, if the enforcement of the new rules could be delayed until the 1st of January, 1875, the date on the title-page would serve as a clear guide to provincial officials who might have occasion to examine the books.

Another point in the new regulations which we consider needlessly burdensome is the system by which permission to publish books never before printed in this country is to be obtained. We regret extremely to say that if books must be twice examined and permits twice issued by the clerical force of any bureau of the Sublime Porte with which we have yet to do, our experience does not give us any ground to hope that the publication of books in this city will be practicable. You will recall to mind the experience of the agent of the American Bible Society in this city, who has had for ten years the consent of the Sublime Porte to the principle of the publication of the Bible in Turkish, but who, now that the translation, made on the faith of that consent, is ready, has been waiting months for the mere formal writing of the permit to the printer to do the work. We, ourselves, have asked in vain for the written permit to print a newspaper which we have published for eighteen months upon a verbal permission from the authorities to issue the paper without waiting for the clerks to draw up the documents. These, and many similar experiences, explain our fear of needless and expensive delays under the new system proposed.

Might we not be allowed to print as we have done heretofore, but at our own risk? Then before any book is bound up or circulated, let us be required to submit it to the proper bureau for the permit of publication. Permission being granted, the permit would then be added to the book with the title-page, as proposed. But if the book proves on examination to be such that permission cannot be granted, let us be required to deliver up the whole edition of the book or the dangerous parts of it. The advantage of such a modification of the law would be, of course, that we would not be obliged to keep our presses and our men idle day after day, while waiting an uncertain length of time for the over-worked clerks to find opportunity to draw up the formal authorization for our work.

Another point which we observe in the copy of the new regulations before us, is that, as they now read, the local authorities throughout the country seem to have the power of stopping all shipments of books. We hope that this does not mean that they are to have the right again to pass judgment upon such books as have once been approved for circulation at Constantinople.

In conclusion, we would again say that we desire to obey the reasonable laws of the empire in all departments of our business, as we have always done hitherto. During this forty years we have not printed anything which the government has found it necessary to suppress, and we have never even proposed for publication anything for which the government has refused its authorization. (See inclosure A.)

With such a record of the character of our business, we hope our suggestions may have kindly consideration.

Very respectfully, your obedient servants,

J. H. GREEN.
T. L. BYINGTON.
HENRY O. DWIGHT.
ISAAC G. BLISS.
M. H. HITCHCOCK.
EDWIN E. BLISS.

[Inclosure 1 in 5 in No. 7.]

Catalogue of religious and other books and tracts printed by the American missionaries in Constantinople.

TURKISH BOOKS IN THE ARABIC CHARACTER.

| No. | | Pages. | Piast. |
|-----|--------------------------------------|--------|--------|
| 300 | Dictionary, English and Turkish..... | 827 | 102 |
| 301 | Notes on Matthew and Mark..... | 400 | 10 |
| 302 | Notes on Sermon on the Mount..... | 88 | 1 20 |
| 303 | Notes on the Decalogue..... | 76 | 1 |
| 304 | Child's First Book..... | 63 | 2 20 |
| 305 | Hymn-Book..... | 102 | 2 |
| 306 | Belief and Worship..... | 128 | 2 |

TURKISH TRACTS IN THE ARABIC CHARACTER.

| | | | |
|-----|------------------------------------|----|--|
| 325 | Judgment and Future State..... | 16 | |
| 326 | The Decalogue..... | 1 | |
| 327 | Beatitudes and Lord's Prayer..... | 1 | |
| 328 | Selected Texts, first series..... | 1 | |
| 329 | Selected Texts, second series..... | 1 | |

TURKISH BOOKS IN THE ARMENIAN CHARACTER.

| | | | |
|-----|--|------|------|
| 350 | Fasts and Feasts..... | 192 | 4 |
| 351 | Avedaper, 1865-1868..... | | |
| 352 | Avedaper for Children, 1872, 1873..... | | |
| 353 | Memoir of Kappadose..... | 54 | 30 |
| 354 | Reading-Book No. 1..... | 60 | 1 10 |
| 355 | Reading-Book No. 2..... | 204 | 4 |
| 356 | Reading-Book No. 3..... | 293 | 5 |
| 357 | Daily Meditations..... | 539 | 5 |
| 358 | Larger Catechism..... | 340 | 5 |
| 359 | Hymn-Book..... | 255 | 3 20 |
| 360 | Hymn-Book, gilt..... | 255 | 7 |
| 361 | Theological Class-Book..... | 264 | 5 |
| 362 | Physiology..... | 262 | 10 |
| 363 | Grammar of Armeno-Turkish..... | 216 | 7 |
| 364 | Arithmetic, small..... | 66 | 2 |
| 365 | Arithmetic, larger..... | 367 | 10 |
| 366 | Natural Theology..... | *221 | 5 |
| 367 | Pilgrim's Progress..... | 426 | 7 |
| 368 | Good Works..... | 532 | 20 |
| 369 | Young Christian..... | 350 | 6 |
| 370 | The Sabbath..... | *111 | 2 |
| 371 | Sin and Salvation..... | 141 | 2 |
| 372 | Right Use of the Fathers..... | 304 | 3 |
| 373 | Geography..... | 195 | 10 |
| 374 | Names for use of Bett's Maps..... | 31 | 1 20 |
| 375 | Self Examination..... | 532 | 20 |
| 376 | Commentary on Matthew..... | 782 | 20 |
| 377 | Mary Lothrop..... | 168 | 2 |
| 378 | Scripture Text-Book..... | 475 | 5 |
| 379 | Narrative tracts..... | 163 | 2 |
| 380 | Drops of Mercy..... | 128 | 1 |
| 381 | The Lord's Prayer..... | 126 | 2 20 |
| 382 | Messianic Prophecies..... | 305 | 4 |
| 383 | Bible Question-Book..... | 206 | 4 |
| 384 | Sermons..... | 400 | 6 |
| 385 | Piety..... | 572 | 30 |
| 386 | Child's Book on the Soul..... | *150 | 2 |
| 387 | Claims of the Pope..... | *108 | 1 20 |
| 388 | Lives of the Prophets..... | 424 | 5 |
| 389 | Catholics and Protestants..... | 406 | 6 |
| 390 | The Canon of Scripture..... | 548 | 20 |
| 391 | The Atonement..... | 564 | 30 |
| 392 | Church History..... | 396 | 6 |
| 393 | Church History..... | 776 | 35 |

| | Pages. | Piast. |
|---|--------|--------|
| 394 The Christian Church | *§82 | 30 |
| 395 Jones's Catechism | 226 | 5 |
| 396 Biblical Catechism | §45 | 20 |
| 397 Armenian Grammar | 208 | 7 |
| 398 Pictures of Animals, 12 cards | 12 | 8 |
| 399 A Savior for You | 47 | 20 |

TURKISH TRACTS IN THE ARMENIAN CHARACTER.

| | | |
|----------------------------------|----|--|
| 450 The World to Come | 11 | |
| 451 Anna Williamson | 20 | |
| 452 Life and Life's End | 38 | |
| 453 Repentance | 17 | |
| 454 Important Questions | 16 | |
| 455 The First Step | 8 | |
| 456 The Cross | 17 | |
| 457 To S. S. Teachers | 72 | |
| 458 Duty of S. S. Teachers | 12 | |
| 459 Going to Jesus | 16 | |
| 460 To S. S. Scholars | 68 | |
| 461 Sermon for Children | 10 | |
| 462 The Great Salvation | 14 | |
| 463 Example of Early Piety | 20 | |
| 464 History of a Bible | 24 | |
| 465 Sermon on the Mount | 23 | |
| 466 The Golden Rule | 16 | |
| 467 The Lord's Supper | 14 | |
| 468 Last Days of Payson | 21 | |
| 469 Phebe Bartlett | 12 | |
| 470 A Gracious Invitation | 4 | |
| 471 The Bridge | 8 | |
| 472 The Ten Commandments | 1 | |
| 473 Blot Out My Sins | 4 | |
| 474 The Great Sacrifice | 6 | |

TURKISH BOOKS IN THE GREEK CHARACTER.

| | | |
|----------------------------|-----|------|
| 500 Hymn-Book | 264 | 3 20 |
| 501 First Book | 68 | 1 |
| 502 A Savior for You | §40 | 20 |
| 503 Good Works | §28 | 20 |
| 504 Catechism | 246 | 5 |

TURKISH TRACTS IN THE GREEK CHARACTER.

| | | |
|-------------------------------|---|--|
| 525 Gracious Invitation | 3 | |
| 526 The Bridge | 8 | |
| 527 Blot Out My Sins | 4 | |
| 528 Eternity | 7 | |

ARMENIAN BOOKS.

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NOTE.

These books are on sale at the Bible-house, Constantinople, and in all the principal cities and towns of the Turkish Empire.

* Indicates to be republished.

† Indicates in press.

§ Indicates paper covers.

JANUARY, 1874.

[Inclosure 2 in 5 in No. 7.]

Statement by the American missionaries.

The statement that the American missionary societies in Turkey have never published or circulated obnoxious or prohibited books has been denied by the Turkish government officials. Indeed, upon an impression that the contrary is true, is founded much of the distrust with which, we have been pained to perceive, many of the officers of the government regard our publication work.

But the business of the American missionaries is open, and they do not fear the fullest investigation, being in a position of conscious rectitude which defies proof of any charge of violation of law.

This is all the answer they can give to charges brought against them by officers of the Sublime Porte; but to the representative of their own Government the American missionaries may, without impropriety, explain that the Porte has ground of complaint in this direction, as its laws have been repeatedly violated by the surreptitious importation of books which have been prohibited circulation since the year 1861. These books, judged blasphemous and treasonable by the Turkish authorities, are smuggled into the country and widely circulated in defiance of the police; and the agents of this work are missionaries of a great English society, who—the individuals as well as the society—have been deaf to the protests of the American missionaries, while they being few escape the notice of the government, and their proceedings, at least injudicious in character, bring upon the large and well-known book business conducted by the Americans most immediate odium.

No. 632.

Mr. Maynard to Mr. Fish.

No 13]

LEGATION OF THE UNITED STATES,
Constantinople, July 23, 1875. (Received August 28.)

SIR: I have the honor to mention an affair which I am sure will interest our countrymen no less than yourself.

Passing up and down the Bosphorus, one never fails to be struck with the great American institution of learning, known as Robert College, on a commanding elevation at the narrowest part of these celebrated straits. Conspicuous no less for the style of architecture than for the situation, it is an object of universal interest. It is understood here to have been established by the sagacity and energy of Rev. Dr. Cyrus Hamlin, once American missionary, made effectual by the endowment of Mr. Christopher R. Robert, a merchant of New York. The number of students has averaged about two hundred, Turks, Americans, English, Armenians, Bulgarians, Greeks, French, Germans, Jews, Russians, Dalmatians, Poles, and Negroes, studying no less than nine different languages, under a corps of sixteen instructors. English is the prevailing language of the school, that is to say, the language which all the students learn; and before my arrival, I was informed by an old resident of Constantinople, not an American, that the influence of the college, in disseminating a knowledge of English, has been very great. The young men educated there are engaged in various pursuits, with the success usual to cultivated mind regulated by healthful moral discipline. * * * Yesterday, the closing exercises of the year attracted a large concourse of spectators. At the request of the director, and following the precedents established by my predecessors, I presided. Among the distinguished persons present, and sitting upon the stage, was one of the Ottoman officials, also Sir Philip Francis, Her British Majesty's consul-general, and among the very ablest of her subjects in this capital; and Mr. Tuckerman, our late minister to Greece. The usual bachelor's degree was conferred upon eleven, all of whom delivered addresses. * * * As far as I can judge, there is a very general kind feeling entertained for the institution and the very able men at its head; and I cannot doubt that its influence, silent and inoffensive as it appears to be, will do much to promote friendship and good correspondence between the two governments. It is this aspect of the subject that has induced me to dignify it with this official communication. I inclose also a report of the public exercises of the college taken from one of the daily papers.

I am, &c.,

HORACE MAYNARD.

[Inclosure 2 in dispatch No. 13.]

THE EXAMINATIONS AT ROBERT COLLEGE.

[From the Daily Levant Herald.]

The annual examinations at Robert College have taken place during the course of the present week, and on Thursday last a large audience assembled to hear the orations by the graduating class and the addresses on the conclusion of the year's work. The interest of the meeting was greatly added to by the presence of Mr. Robert, to whose more than princely munificence the various races of the empire are indebted for this noble institution on the Bosphorus.

The chair was taken by the Hon. Horace Maynard, the American minister. There were also present Sir Philip Francis, H. M. consul-general and judge, the Hon. Mr. Tuckerman, late American minister at Athens, and a considerable number of the leading American and English residents.

Dr. Washburn, the director, introduced the different members of the graduating class to the audience, and afterward conferred upon them the degree of B. A. The orations which appeared to meet with the highest approval, were on "Universal Peace," by Constantine Yorghiades, and one on "The Labor Question," by Alexander Latzanoff. Another on the "Instability of Human Governments," by Todore Ivanchoff, was also very good, and indeed the whole of these orations struck us as being considerably above the average of the last two years, and indicated a distinct advance in the progress of the college. There could be but one opinion on the enormous advantage it is that the young men of Turkey should have an institution of this kind whereby they are brought directly into contact with the culture and morality of the western world, and on the thoroughness and the systematic, business-like way in which the educational course of the college is worked.

After the conferring of degrees the chairman (Mr. Maynard) delivered an address, in which, after pointing out to the students that their educational career was intended to fit them for their future pursuits in life, and that it was valueless unless they put in practice the precepts of morality upon which they had enlarged, he expressed the satisfaction he felt that his countrymen were so ably pursuing this educational work.

Sir Philip Francis followed, and referred to the noble example set by Mr. Robert, and to the interest which he always felt in the success of the college. The Rev. Edwin Bliss, the Hon. Mr. Tuckerman, and the Rev. Mr. Millengen having spoken, the chairman called upon Mr. Robert. His appearance was greeted by a round of long-continued applause, which must have satisfied every one present that there was none who did not feel it an honor to see and hear him.

Mr. Robert, after addressing himself especially to the young men who were leaving the college, urging them in particular to remember that their acquirements would be of little value unless they added integrity, perseverance, and frugality, he remarked, that in all probability to most of those present, he was taking a last farewell, and in the course of his observations, during which he nearly broke down from emotion, he declared that he looked forward to the time when, by the help of Robert College and of similar institutions, this country would again take high rank among the nations of the earth. With his address and a concluding prayer by Dr. Woods, the proceedings of the day terminated. The intervals between the orations were enlivened by a band of music.

It is only right to mention that all present bore the very highest testimony to the exertions of Dr. Washburn and the professors associated with him.

No. 633.

Mr. Maynard to Mr. Fish.

[Telegram.]

CONSTANTINOPLE, August 16, 1875. (Received August 16.)

FISH, Washington :

Saturday, Porte, informed by Aristarchi, telegraphed governor, ordering reparation made American consul before Hartford reaches Tripoli.

MAYNARD.

Mr Maynard to Mr. Fish.

No. 17.]

LEGATION OF THE UNITED STATES,
Constantinople, August 16, 1875. (Received September 8.)

SIR: I have the honor to inform the Department of State that on the 12th instant Reuter's Telegraphic Agency published the following dispatch, viz :

"AMERICA, WASHINGTON, *August 10.*

The Government has ordered the frigate "Hartford" to go to Tripoli and make an inquiry into an outrage perpetrated upon the American consul.

Inquiry was made at the legation for further information, of which I had none.

The following day Safvet Pasha, the minister of foreign affairs, sent for the dragoman, Mr. Gargiulo, requesting him to call at his private residence on Saturday morning. He wished to know the meaning of the dispatch. Mr. Gargiulo could not give it, as the legation had received nothing about it, either from Tripoli or Washington. He then wanted to know our opinion in the premises. Mr. Gargiulo could only surmise that our Government, weary of the frequent and tedious delays to obtain satisfaction for injuries to her citizens, had decided to conduct investigation through other than diplomatic channels. The minister expressed regret that any such supposed necessity should have arisen, and remarked upon the decision which characterized the Americans.

At that moment there was handed the minister a cable dispatch from Aristarchi Bey, Ottoman minister at Washington, in relation to the same affair. When the minister had read it, he handed it to Mr. Gargiulo, who requested a copy. This the minister declined to give according to the tenor, on the ground that it might be used to disclose his official cipher, but gave him the substance in language of his own. I inclose this version of the dispatch, as well as the dispatch itself, according to Mr. Gargiulo's recollection of the language, both translated into English.

The minister then dictated a dispatch to the governor-general of Tripoli, which he submitted to the inspection of Mr. Gargiulo, in substance as follows :

"An American man-of-war has been ordered to go to Tripoli to seek satisfaction for the American consul there on account of an insult done him and his wife by some natives. You are invited to take the matter up immediately, have the necessary investigations made, and reparation given before the said ship arrives there, and in such a way as to fully satisfy the consul."

Yesterday he communicated to me the result of his visit, which I embodied in a telegraphic dispatch in these words :

"Saturday, Porte, informed by Aristarchi, telegraphed governor, ordering reparation made American consul before Hartford reaches Tripoli."

As you will perceive, I am wholly in the dark, except as I can infer from the two dispatches from Washington.

There are some reasons to give the Ottoman authorities disquiet in the matter besides an evident disinclination to incur the displeasure of our Government, towards which in various ways they have manifested kind feelings.

It brings into sharp controversy the question presented in my dispatch No. 10, of the 6th July last. As long as the action of our Government appeared only in our official publications and diplomatic correspondence, it was by no means so serious as if it should assume a quasi hostile at-

titude toward Tripoli, without any notice, either to the Ottoman Porte directly or through their minister at our capital.

The troubles in Herzegovina, too, are of importance enough to make it inconvenient to entertain any other issue of gravity at this time.

Then, too, the financial situation is understood to be not free from difficulties.

Seeing such a temper, I hope I shall not be thought to have transcended the line of due observance in making this communication without waiting for instructions or further information.

I am, &c.,

HORACE MAYNARD.

[Inclosure 1 in No. 17.]

Telegram from Aristarchi Bey, as recollected by the dragoman.

I hear indirectly that an American man-of-war is on the point of being sent to Tripoli, in Africa, to ask the punishment of some natives who have insulted the consul and his wife, and that, if necessary, some other vessels will be sent. It would be necessary to do justice to the claims of the consul, in case they are right, before the arrival of the ships, and invite the representative of the United States at Constantinople to confirm the incontestable authority of the government over Tripoli. I did not want to interfere before receiving instructions from you.

[Inclosure 2 in No. 17.]

Aristarchi Bey's telegram dictated by the minister of foreign affairs.

Aristarchi Bey telegraphs to the Porte that a man-of-war is on the point of being sent to Tripoli, of Barbary, to ask the punishment of some natives who have insulted the consul and his wife, and that, if necessary, some other vessels will be sent. It would be necessary to make justice to the claims of the consul, in case they are right, before the arrival of the ships, and invite the representative of the United States at Constantinople to confirm the incontestable authority of the government over Tripoli.

The minister of foreign affairs prays Mr. Maynard to telegraph to his Government that the Porte hastened to telegraph to the governor-general to do immediate justice to the consul if necessary.

No. 635.

Mr. Hunter to Mr. Maynard.

No. 19.]

DEPARTMENT OF STATE,
Washington, September 9, 1875.

SIR: Your dispatch No. 17, of the 16th ultimo, has been received. It relates to what is called the affair of Tripoli. It is to be regretted that the Ottoman government should have shown that apparent anxiety upon the subject which your dispatch indicates. Even now, the Department has received nothing in writing from Mr. Vidal in regard to it. A telegram from him reached here, stating that he had been insulted, and as this showed a state of feeling in that quarter in respect to him which might lead to other acts of a more serious character, the Navy Department was asked to send a man-of-war thither, not, as is supposed, to demand satisfaction, but to report upon the facts. The

consul would also probably have been received on board if his continued residence at Tripoli should be deemed inconvenient. The fact that a man-of-war had been ordered to Tripoli was mentioned in the newspapers without the agency of this Department, and, having attracted the attention of Aristarchi Bey, he telegraphed to his government, as you report.

Of course it would be premature to express an opinion in regard to Mr. Vidal's complaint against the Tripolitan government until his written statement shall have been received.

Aristarchi Bey addressed a note to Mr. Fish requesting that the naval vessel might be withdrawn from Tripoli, reserving the dispute for adjustment through the diplomatic channel. The request was complied with. On that very day, however, there was telegraphic intelligence that the affair had been settled, and that the vessel had left Tripoli. This, of course, was before any orders for her withdrawal could have reached her.

It may be a fact that Tripoli is a more immediate dependency of the Porte than any other of the so-called Barbary states, such as Tunis and Morocco. The fact, too, may have been practically and formally recognized by other powers. It cannot, however, be ascertained that it has in any official way been acknowledged by this Government. We have never applied at Constantinople for the recognition of any consul of the United States at Tripoli, and our treaties with the Bey, and in particular that of 1805, are regarded as in full force. It is no doubt desirable that, for the maintenance of those friendly relations with the Porte which we have no disposition to weaken, there should be a clearer understanding between the two governments upon this question. Proper steps for this purpose will probably soon be adopted.

I am, sir, your obedient servant,

W. HUNTER,
Acting Secretary.

No. 636.

Mr. Maynard to Mr. Fish.

No. 22.]

LEGATION OF THE UNITED STATES,
Constantinople, September 27, 1875. (Received October 29.)

SIR: So far no information concerning the affair at Tripoli, Barbary, has reached me, either from the consul, Mr. Vidal, or from the Department of State. It has, however, been brought to my attention in various other ways. My dispatch No. 19, of August the 16th, and my telegram of the preceding day, explained the manner of its being presented to the legation by Saïvet Pasha, the minister of foreign affairs. Sir Henry Elliott, Her Britannic Majesty's ambassador, has alluded to it more than once.

The Daily Levant Herald—one-half English, one-half French—the only English publication here, in its issue of the 20th instant republished from the London Times a narrative of the affair, a copy of which I inclose.

Five days later the same paper appeared with another statement of the facts, professedly from a correspondent, and an editorial similar in temper to the statement, and altogether dissimilar to that from the London Times. These two articles were published in both the English

and the French parts of the paper. The belief has been expressed that they were inspired by the Sublime Porte; but I know of no facts to warrant it, and I mention it only to indicate the interest felt in the matter. Copies of the English and of the French will be inclosed.

Thus stood the case this morning. On coming to the legation I found rubric on my table a note from the minister of foreign affairs, styled in the "Vexatious proceedings committed by the titulary of the American consulate at Tripoli, Africa."

I inclose copies of the original French and of the translation.

My reply to this note is also inclosed.

I do not at present perceive that I can take any further steps until I am possessed of a correct version of the affair and have pertinent instructions.

I am, &c.,

HORACE MAYNARD.

[Inclosure 1 in No. 22.]

THE UNITED STATES CONSULAR DIFFICULTY AT TRIPOLI.

[From the "Daily Levant Herald," September 20, 1875.]

We condense from a long and interesting account given by the Malta correspondent of the Times, and dated September 5, the following version of the origin and attendant circumstances of this affair:

The recent difficulty, which was settled on the 26th of August, was in reality the culminating point of a long series of quarrels between the several United States representatives and the officials at Tripoli, the first of which occurred upwards of thirty years ago. They say that the garden of the Hesperides was in the regency of Tripoli; but beyond doubt the mansion of the goddess Discord was, in times past as well as at present, in the city of Tripoli. There the consuls of foreign powers are known to be forever on bad terms with one another, or with the pasha. Mr. Porter, and his successor in the United States consulate, Mr. Vidal, spent whole years without making the acquaintance of half of their colleagues. Mr. Vidal, who was one of the first organizers of the republican party in Louisiana, a State which he subsequently represented in Congress, has been doing his best to put an end to the shameful traffic in negro slaves between the Soudan and Constantinople by way of Tripoli. But the greatest cause of the hostile feeling against Mr. Vidal was a dispatch of his, subsequently published by the United States Government, advising the latter to negotiate with the Porte for the purchase of a sea-port on the coast of the regency, to be used as a coaling station by the United States Navy. His dispatches published by the Washington Government, coupled with his journey on horseback along the coast of Cyrene and Marmarica, had made him an object of suspicion at Tripoli.

On the 24th day of June last, on the occasion of the anniversary of the Sultan's accession to the throne, the consuls were invited by the pasha to pay him an official visit. When the United States consul presented himself in the hall of reception, the French consul-general was conversing in the Turkish language with the pasha; the latter got up to shake hands with Mr. Vidal, and, after inviting him to sit down, resumed his conversation with the French consul, and took no more notice of Mr. Vidal, who left, showing by his manner that he felt hurt at being slighted, and at the neglect of the common rules of etiquette on the part of the pasha.

On the 4th of August the consul's family, who were occupying a villa belonging to his highness Mahmoud Nedim Pasha, grand vizier, a short distance from the town, were at dinner in a pavilion not far from the sea-shore. At this moment the waiting-maids saw on the threshold of the dining-room a sailor belonging to a party sent from one of the vessels of the Ottoman squadron to take fresh water from a well hard by. When the maids saw that the man must have passed through two or three rooms to reach the spot where he was standing, without knocking at any door, calling for any one, or making any kind of noise, they, alarmed, asked him what he wanted. He answered that he wanted a light for a cigarette he showed. They then ordered him to go away, but he did not stir, but impudently looked about the room. At that moment the consul got up from the sofa and took a step or two in the direction of the door. The sailor, on seeing him, took to his heels and ran away as fast as he could,

pursued by the consul. The fugitive passed by two petty officers who were standing by the well; the consul on approaching them asked where the sailor was, and was answered by one of the officers that the intruder had gone to his boat. The other officer then said to the consul, "What has that man done, after all? He went to your house to get fire, for we wanted to smoke." The officers did not want lights, for they were smoking at the time, a fact to which the American called the attention of the Ottoman who had just spoken to him, the former putting his hand on the latter's shoulder. He had no sooner done so when a sailor called for help, and a few minutes later the consul had to face about fifty sailors, many of whom were armed with sticks, and all of whom were looking at him in a very threatening manner.

On the following day, when the pasha was informed of what had occurred by the United States consul, who offered to go with his witnesses before the court-martial which was to try the guilty parties, he was surprised at being told by the pasha that he was expected to apologize to the admiral of the squadron. But that was not all; the pasha, on a mere statement of a sailor, wrote an insulting letter to the consul, and further, boldly sent him a summons to appear before a court composed of five inhabitants of the place, which is contrary to the treaties with Ottoman countries, where consuls enjoy the right of extritoriality, which in Christian countries is accorded to foreign ministers only. At this stage the native inhabitants had had their religious fanaticism excited by the narration of the occurrences in the Ottoman version, and, as ultra fanatics are always found along the Barbary coast, these did their best to fan the flame, and mutterings of dislike to the hated *giaours* were rife, alarming the Christian portion of the community. The United States consul, therefore, sent his secretary to Malta to telegraph to Washington. A few days later the United States frigate Congress cast anchor before Tripoli, and on two of her officers landing, to communicate with their consul, they were insulted by a mob of natives, thus further complicating the already sufficiently-knotted difficulty. Negotiations now went on with the pasha for a settlement of their trouble, but he offered no satisfactory reparation. However, the United States frigate Hartford had also been ordered to Tripoli, and on her arrival the ruler of the place lost all assurance, and wrote a letter consenting to all the demands of the United States consul. In consequence, on the 26th of August, the pasha called at the United States consulate in full uniform, and there made an ample apology in the presence of the officers of the Congress and Hartford; he also withdrew the offensive letters, promised to have the sailor duly punished, and has given the consul the choice of two members of the court, who are to be dismissed from office with the proviso that they can never more be employed by the government in an official capacity.

After the settlement of this matter, Mr. Vidal and his family appear to have taken a trip to Malta, where they arrived on board the United States frigate Congress on August 29. The difficulty had been arranged at Tripoli on the 26th.

[Inclosure 2 in No. 22.]

THE UNITED STATES CONSULAR DIFFICULTY AT TRIPOLI.

[Extra cts from the "Daily Levant Herald," September 25, 1875.]

A summary appeared in these columns a few days ago of this affair, as related by the Malta correspondent of the Times. We are now enabled to publish another version of it, derived from an authentic source, and which not only differs from the former narrative, but supplies some essential particulars omitted therein.

Although Mr. Vidal's office, as United States consul-general, is a complete sinecure, there not being a single American subject or interest to protect at Tripoli, that gentleman has, during his six years' residence in that province, quarreled with every successive *vah*, and has at the same time estranged himself from the whole of the consular corps, and the society of the place, with one or two exceptions; and has rendered himself most unpopular with all classes of the inhabitants.

On the 4th of August, a boat's crew from the Turkish flying squadron, which was then lying in the harbor of Tripoli, having landed at a spot about a mile from the town to take in water, one of the sailors, wishing, it is said, to get a light for his cigarette, walked up to the country-house temporarily occupied by Mr. Vidal. The man, seeing the consul rush out at him, took to his heels, and was pursued and pelted with stones by Mr. Vidal. The consul then went down to the sea-side, where some Turkish naval officers, who had accompanied the boat, were sitting, and questioned them as to the sailor who had entered his house. Ultimately Mr. Vidal seized one of the officers and shook him violently, tearing his clothes. A correspondence then ensued between the *vah* and Mr. Vidal, the former demanding reparation for the assault on the Turkish officer, and informing Mr. Vidal that he had directed that evidence of the assault

should be taken before the medjlisi temiz, one of the local tribunals; while Mr. Vidal, on the other hand, demanded the punishment of the sailor for violating his domicile. He further telegraphed, by way of Malta, to his Government; and on the 17th August the United States frigate Congress arrived, followed a few days after by the frigate Hartford. As soon as the first of these vessels had cast anchor, Mr. Vidal began by addressing a letter to the *vahî*, demanding satisfaction for insults said to have been offered to officers of that ship by the crowd on their way from the landing-place to the American consular residence. It is declared by eye-witnesses that nothing of the kind took place. There thus remains a doubt whether the officers of the Congress may not have been mistaken on this head. However this may be, the *vahî*, at Mr. Vidal's demand, wrote a letter expressing his regret at the alleged occurrence, and stating his readiness to punish the culprits severely, if discovered. His excellency, in the meanwhile, sent the chief of the police, accompanied by the mayor of the town, to the United States consulate, to apologize to the consul in the presence of the American officers.

We now come to an important phase of the question, which is passed over in silence in the account furnished to the Times. Mr. Vidal had meanwhile demanded that the town should salute the American frigate with twenty-one guns, in conformity with the terms of some treaty "between the United States and Tripoli;" to which the *vahî* replied that he was unable to comply with this demand, as being contrary to usage and existing regulations.

The consular corps, having at the same time received assurances from the captain of the Congress that the question between Mr. Vidal and the local authorities would not lead to any hostile act on the part of the frigates until "diplomatic action" had failed to arrange matters, were led to conclude that it was intended to refer the pending questions to Constantinople. Mr. Vidal's colleagues, therefore, did not think of availing themselves of the departure on the 21st August of the Ottoman mail-steamer for Malta in order to apply for ships of war to protect the lives and property of Europeans.

It soon became manifest that the "diplomatic action" alluded to had reference only to the representations of the United States consul to the local authorities; for, immediately after the departure of the steamer, Mr. Vidal gave out that the town would be bombarded if full satisfaction were not given for the insults offered to the American flag in his person. The frigates lowered their masts and cleared for action, while armed boats took soundings and parallels, and the most alarming rumors, emanating from the American consulate, were spread in the town. A panic ensued, the Christians and Jews apprehending, in addition to the effects of the bombardment, the further consequences of the fanaticism which would be aroused among the Mahomedans, inciting them to retaliate by the massacre of the rest of the population and the pillage of their property.

On the 23d instant Mr. Vidal addressed a letter to the *vahî*, containing five separate demands for reparation for the alleged affronts, and giving twenty-four hours for a reply. These demands comprised the following points: 1. Withdrawal of the *vahî's* letters demanding the consul's presence before the local tribunal, and apology for the alleged insulting language contained in those letters. 2. Severe punishment of the sailor who "surreptitiously and violently" entered the consul's residence. 3. Dismissal from office of the members of the above-mentioned tribunal and their punishment for "violation of law, custom, and treaty." 4. Guarantee from the pasha that the same courtesies and legal rights will be extended to the "representative of the United States and his attachés" as are enjoyed by those of other governments. 5. A "national" salute of twenty-one guns to be fired from the fort, with the United States ensign displayed, to be answered from the senior officer's vessel, with the "flag of the country" flying. The hope was expressed, in conclusion, that "these mild demands" would be at once acceded to, in consideration of the *entente cordiale* which has so long existed "between the United States and Tripoli."

The *vahî*, alarmed at the nature of some of these demands, and the general aspect of matters, appealed to the English, French, and Italian consuls for their advice and good offices. These consuls, believing likewise that hostilities were imminent, addressed, it is said, a joint note to Captain English, of the Congress, pointing out the danger to which the European population would be subjected by any hostile act, and stating in the most formal manner that in their view Tripoli was in no way an independent state, but an integral province of the Ottoman Empire.

To Mr. Vidal's letter the *vahî* replied, yielding on three out of the five points demanded, but declaring his inability to comply with the other two, namely, the dismissal *en masse* of all the members of the medjlisi temiz, and the matter of the salute, without special orders from the Sublime Porte.

Upon the receipt of these two communications the Americans showed themselves more accommodating, and ultimately agreed to be satisfied with the suspension from office of two members only of the tribunal, and with a visit in uniform from the *vahî* in lieu of the salute. The Netherlands consul-general acted as mediator in settling the terms of this compromise. It is to be observed, however, that Mr. Vidal, in his letter

to the *vah*, accepting the above terms, expressly states that the question of the salute is reserved for the consideration of his Government.

The official visit of the *vah* of Tripoli to the United States consul-general having been made in the presence of the American commanders and officers, the frigates sailed, taking Mr. Vidal with them, and leaving the Dutch consul-general in charge of the American consulate.

In another column will be found an authentic account of the late dispute between the United States consul-general at Tripoli, in Barbary, Mr. Vidal, and the Ottoman authorities. Although the American consul, backed by two frigates, carried the day, the victory is one of which the United States will scarcely feel proud; indeed, the "rowdy" character of the proceedings warrant the belief that they will be promptly disavowed by the Government at Washington. Insignificant both as regards its origin and the points ostensibly at issue, the dispute nearly involved bombardment of a town, the seat of government of a Turkish province; but its chief importance lies in the fact that the American consul from first to last has taken his stand upon the fiction that Tripoli is still an independent state, and bound by the treaties entered into with the United States in former times, on the strength of which he exacts the observance of formalities which practically involve the non-recognition of the sovereign rights of the Porte over her Barbary pashalik. Ever since his arrival at Tripoli, six years ago, Consul-General Vidal appears to have been on bad terms with almost everybody in the place, including the whole of his colleagues, and especially each successive pasha who has held the post of *vah* of that province. In the peculiarity of Mr. Vidal's temper, probably, resided the *fons et origo malorum*. Be this as it may, two or three years ago, in a correspondence since published in an American Blue Book, Mr. Vidal pointed out the desirability of the United States obtaining possession of the ports of Bomba and Tobrook, at the western extremity of the Tripoli coast, close adjoining that of Egypt. It can hardly be supposed that the United States Government could seriously have entertained so wild a project. At the same time, the impression which prevails at Tripoli that Mr. Vidal sought to involve the authorities in a quarrel with his Government evidently owes its origin to the belief that he desired to create an opportunity to put forward his curious scheme. The trivial nature of the incident which led to the late crisis bears out this view. A Turkish sailor, who professed to be in search of a light for his cigarette, strayed into Mr. Vidal's country residence, and, with the loutish curiosity common to his class, was looking about him, when, being espied and pursued by the infuriated consul, he took to his heels. This incident Mr. Vidal describes as "a surreptitious and violent entry" into his house. On the other hand, while the Times correspondent at Malta admits, whose version of the affair we recently published, that Mr. Vidal, on coming up to the naval officer to whose party the sailor belonged, put his hand on the officer's shoulder, the account we to-day publish states that the consul "seized the officer and shook him violently." Even taking the first of these accounts as the true one, the act described constitutes, in point of law, an assault; and it may be doubted whether men in any service in the world would have done less, if so little, as to come to the rescue of their assaulted commanding officer with a mere threatening demonstration, which is all that is complained of in the present instance.

The *vah* was undeniably out of order in summoning, or at least inviting, the consul to appear before the *medjlisi temiz*, or local court of arbitration, in connection with the cross demand for satisfaction arising out of the above incident. But the Times correspondent is not justified in asserting that the summons was based "on the mere statement of a sailor," since it is evident that it was the officer who complained against Mr. Vidal, the sailor being, on the contrary, put on the defensive. Whether the *vah*'s communication was couched in insulting terms, or the summons in itself was considered as such by the consul, it is impossible to say in the absence of precise information, although Mr. Vidal's manifest exaggeration of language in the instance above cited, coupled with the habitual courtesy of Ottoman officials, justifies a doubt as to the first supposition. It is unnecessary to dwell on the further episode of the alleged insults offered to the American officers on their arrival by the crowd, since that matter was satisfactorily disposed of; although, had there been anything in it, (which our informant, on the testimony of persons who were present, assures us was not the case, while the officers themselves can hardly have been competent to judge, if the insults were verbal,) there was evidently a much better *locus standi* for a grievance in this incident than in the other just mentioned. That, in satisfaction for a grievance which was at least relatively insignificant, the town of Tripoli should have been threatened with a bombardment almost exceeds belief, and it cannot be doubted that the United States Government will recognize the false position in which it has been placed by a representative, the fiery ebullitions of whose arrogant temper were the mainspring of

his policy. The United States Government is not always as careful as it might be in the selection of its foreign representatives, and, although it has sent many men to this country who have done honor to their own in representing it, still, more than one instance occurs to us in which the prestige of the great transatlantic republic in the Levant has been injured by officers who, like Mr. Vidal, have prostituted their trust to the gratification of their own undisciplined passions.

[Inclosure 3 in No. 22.—Translation.]

Safvet Pasha to Mr. Maynard.

Vexatious proceedings committed by the titulary of the American consulate at Tripoli, Africa.

SIR: It appears from information received at the imperial ministry of marine that a seaman named Ahmed, of the corvette "Edirné," of the imperial squadron of evolution in the Mediterranean, recently arrived at Tripoli, Africa, had been sent on shore with a boat for water, and while asking fire to light his cigarette from a servant of the American consulate, which he was passing, the consul interposed and scolded his servant because he allowed the seaman to enter his garden, and drove him away by throwing stones at him, after having overwhelmed him with abuse. Ahmed went back to his boat, but Hairy Effendi, engineer of the frigate "Moukkbiri Sourour," and Moustapha Agha, another seaman of the "Edirné," who were passing by at the moment, were also assaulted by Mr. Michel Vidal, who, giving way to violence, tore the collar of the former and beat the other.

These strange proceedings have been corroborated by means of investigations made on the spot by the local authorities, whose action the United States consul thought proper to answer by controverting the facts and shifting the responsibility so as to present himself as the victim.

In having the honor, Mr. Minister Resident, to bring to your attention the conduct of that agent, I am persuaded that you will, with the equitable sentiments so well known, ascertain the responsibility incurred by him in this affair, and give such orders as to let the mariners who have had to suffer by his conduct receive the satisfaction due them.

Accept, Mr. Minister Resident, the assurance of my very distinguished consideration.

SAFVET.

[Inclosure 4 in No. 22.]

Mr. Maynard to Safvet Pasha.

SEPTEMBER 27, 1875.

YOUR EXCELLENCY: I hasten to acknowledge your note, dated the 25th instant, No. 41767-17, in relation to the recent difficulty at Tripoli, Africa. At present I have no information relative to it, either from Mr. Vidal, the consul, or from the Department of State at Washington. I shall lose no time in communicating the subject of your note to the Secretary of State, asking to be informed of the affair as it is understood by him, and also such instructions about it as will effect a speedy and honorable adjustment.

When I shall be so informed and instructed, your excellency's well-known fairness and moderation give the highest assurance that exact and impartial justice will be done in a spirit creditable alike to the Sublime Porte and to the United States.

I cannot properly conclude, however, without calling your excellency's attention to the fact stated in your second paragraph—in substance, that the consul had been held to answer by the local authorities—and to ask a reference to Article I of the treaty of February 25, 1862, between His Imperial Majesty the Sultan and the United States of America, and Article 25 of the treaty between the Ottoman Empire and Great Britain of September, 1675.

By the former, "all rights, privileges, and immunities granted or suffered to be enjoyed by the subjects * * * of any other foreign power shall be equally granted to and exercised and enjoyed by the citizens * * * of the United States of America."

By the latter it is stipulated that "in all lawsuits or disputes in which they (the consuls) may be implicated, the Sublime Porte must be addressed, or their ambassadors will answer for them."

If it shall be found on inquiry that there has been a violation of these articles by the local authorities in proceeding against the American consul for an alleged misdemeanor, I submit to your excellency whether their conduct is not open to very grave censure.

I pray your excellency to accept the assurance of my very distinguished consideration.

HORACE MAYNARD.

No. 637.

Mr. Fish to Mr. Maynard.

No. 28.]

DEPARTMENT OF STATE,
Washington, November 9, 1875.

SIR: Your dispatch No. 22, dated 27th September last, with inclosures, is received. It relates to what is known as the affair at Tripoli, Barbary, and incloses certain newspaper articles and copy of a note from Safvet Pasha, the minister of foreign affairs, and your reply thereto.

You will observe, by reference to my dispatch No. 23, dated 8th October last, that this Government has never heretofore been called upon to recognize in any way the sovereignty of the Sublime Porte over Tripoli, and that our relations with that country have been governed and controlled for more than half a century by the treaty of 1805.

This subject was fully discussed in my former dispatch, and I allude particularly to it in this connection in order that you may recognize its significance and the importance of being controlled in the settlement of this affair, and in all our negotiations connected therewith, exclusively by our treaty with Tripoli.

For these reasons it would have been better if, in your note to Safvet Pasha, you had not referred to our treaty with the Ottoman government as securing our consul against the indignity of proceedings against him by the local authorities for an alleged misdemeanor. The "most-favored nation" clause in our treaty with Tripoli secures to the United States consul all the rights and privileges accorded to the representatives of other foreign powers. Having appealed to our treaty with Tripoli, we cannot, in the settlement of this question, take our treaty with the Porte at all into consideration.

So far as any satisfaction required by this Government is concerned, the affair of Tripoli will be considered settled when we hear of the punishment of the Turkish sailor who invaded the American consulate. The question of the recognition of the sovereignty of the Porte over Tripoli is now for the first time presented officially to this Government. Our treaty with the Tripolitan authorities was made at the close of a war waged for the protection of American citizens and American interests in Tripoli. We have at all times yielded to Tripoli all the rights and privileges accorded to that power by the treaty, and have claimed and exercised all the rights and privileges accorded by it to the United States. We cannot lightly, and without sufficient guarantees that these rights will be preserved to us by some other authority, surrender them at the mere request of a friendly power which offers nothing in exchange for such surrender. I am at a loss to imagine what reasons the Ottoman authorities can have for presenting this question at the time it was done. At the time Aristarchi Bey first called my attention to the designation of Tripoli as one of the Barbary states in our volume of Foreign Relations nothing had recently occurred to call attention to the matter. The treaty made with Tripoli had been in operation ever since 1805, and

no official or unofficial protest against it had ever been made by the Ottoman government. Our consul to Tripoli has been, ever since the ratification of the treaty, accredited by a letter of the President to the reigning pasha. It is true that our consuls to Tripoli have in late years applied to and received through the United States minister an exequatur from the Porte, but this was done only in recognition of such authority as was claimed and exercised by the Porte in the local government, and cannot be construed as in any manner an abandonment of our treaty-rights. In this connection it is important to observe, as bearing upon the distinction which this Government has always made in its relations with Tripoli, that it is the invariable custom of this Department to forward the commissions of consuls to the minister accredited to the government in which the consulate is situated, in order that the minister may apply for an exequatur and forward it to the consul with his commission; but this has never been done on the appointment of consuls to Tunis and Tripoli, which form the only exception to the rule. The application of consuls to Tripoli for an exequatur from the Porte was made upon their own authority and without orders from this Government; but, however it was made, it is a fact of minor importance, and cannot affect the real question at issue.

From all the information in the possession of this Department it appears that after the change in the government of Tripoli in 1835, and until a late date, the European governments still insisted on their right to maintain in force their treaties with the Bashaws of Tripoli. The French government maintained in Tripoli a consul-general *chargé d'affaires* until 1845, in which year he dropped his diplomatic title. Spain was represented in Tripoli as late as 1846 by a consul-general *chargé d'affaires*, but since that time by a vice-consul only. After 1835 the British government retained at Tripoli the diplomatic agent appointed under the Bashaws. When he died, about 1849 or 1850, his successor was for a time styled consul-general *chargé d'affaires*. At present Great Britain, and all the other European governments, are understood to be represented at Tripoli by consuls. What motives induced these governments to change the character of their representative at Tripoli is, of course, not known, and can only be conjectured. It may have been only for reasons connected with the economical administration of the foreign affairs of the respective governments, and it may have been in consequence of representations made to them by the Ottoman government. I am unofficially informed that in 1872 the Ottoman government entered into a convention with Great Britain, France, and Italy, in which those governments acknowledged the sovereignty of the Porte over Tripoli. It is not known whether in this convention or at any other time those governments abandoned their rights under their treaties with the Bashaws. It is believed, however, that the treaty-making powers which, prior to 1835, had entered into treaties with the Bashaws of Tripoli, regard those treaties as being still in force. But, however this may be with other governments, the United States has always maintained the inviolability of our treaty with Tripoli, and in justice to ourselves we must continue to maintain it until we can have some guarantee for the conservation of our rights under that treaty. The whole question of our relations with Tunis and Tripoli might be taken into consideration, if brought forward and presented by the Porte, as a proper subject for diplomatic action in the negotiation of the proposed new treaty between the Ottoman government and the United States.

Nothing has been received at the Department from Mr. Vidal modifying or changing in any material point the state of affairs as reported by

him in his No. 73, a copy of which was transmitted to you with my No. 23. It is apprehended that an incorrect, or at least very much exaggerated, report of the occurrences has been made by the Tripolitan authorities to his excellency Safvet Pasha, and that that distinguished minister's well-known solicitude for the dignity and honor of his government have been taken advantage of by the pasha to induce him to magnify into international importance a mere local difficulty. The invasion of the American consulate by a Turkish sailor, the insult to the officers of the Congress on the streets of Tripoli, and the summons from the pasha to our consul to answer before one of the local courts for an alleged misdemeanor, are facts which there does not appear to be any attempt made to controvert. If, however, it should appear upon fuller investigation that a different state of affairs exists from that reported, this Government will take proper measures for the preservation of our own honor and dignity and the full and complete satisfaction of all who may have been aggrieved.

I am, &c.,

HAMILTON FISH.

No. 638.

Aristarchi Bey to Mr. Fish.

No. 1444.]

IMPERIAL OTTOMAN LEGATION,
New York, September 30, 1874. (Received October 1.)

Mr. SECRETARY OF STATE: The governor of Bingasi has informed the department of foreign affairs at Constantinople of the humane conduct of Mr. Vidal, consul of the United States of America at Tripoli, in Africa, during the prevalence of the bubonic plague at Bingasi, while Mr. Vidal was temporarily sojourning there.

Mr. Vidal, who was stopping in that city simply as a private individual, visited Merdj, with the commission which had been appointed for the purpose of studying the nature of the malady on the spot, and of adopting prophylactic measures; he gave his most active co-operation, and thus rendered services which have been highly appreciated.

His excellency Aarifi Pasha, while commending the conduct of Mr. Vidal, instructs me, Mr. Secretary of State, to convey to the Washington Cabinet the sincere thanks of the authorities of Bingasi and of the imperial government for the same, and I deem myself happy to be the interpreter of these sentiments.

Be pleased to accept, &c.,

G. D'ARISTARCHI.

No. 639.

Aristarchi Bey to Mr. Fish.

No. 1453.]

IMPERIAL OTTOMAN LEGATION,
New York, October 15, 1874. (Received October 16.)

Mr. SECRETARY OF STATE: I did not fail to transmit to Constantinople the annual reports of the Commissioner of Education, which ac-

accompanied your note of the 26th of March last, and the imperial government expressly instructs me to convey its sincere thanks therefor to the Washington Cabinet.

His excellency Safvet Pasha, minister of public instruction, writes to me as follows:

“By the very full and able reports of the United States Commissioner of Education, we have been enabled the better to appreciate the progress which is daily made in a country in which public education occupies so high a position.

“As a matter of course these reports, as well as any other communications relating to public instruction in the United States, cannot fail to possess great interest for us.

“I therefore beg you to be pleased to convey the expression of our sincere gratitude to the persons who have so kindly complied with our request, and I have the pleasure of sending a copy of each of the works used in our schools, to be presented as a complimentary offering to the Commissioner of Education, for his library.”

I have the honor, Mr. Secretary of State, to send you the Turkish works referred to by his excellency Safvet Pasha, and he desires me to procure copies of certain works used in America in the instruction of youth.

Be pleased to accept, &c.,

G. D'ARISTARCHI.

No. 640.

Mr. Cadwalader to Aristarchi Bey.

DEPARTMENT OF STATE,
Washington, October 30, 1874.

SIR: I have the honor to acknowledge with thanks the receipt of your note of the 15th instant, and the school-books therewith transmitted for the library of the Commissioner of Education.

Pursuant to your request, the expressions of gratitude offered by the minister of public instruction to the Commissioner of Education for the works presented to the former, have been conveyed to him; and application has been made for a collection of the text-books used in the public schools of the United States, which the minister desires.

Accept, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 641.

Aristarchi Bey to Mr. Fish.

IMPERIAL OTTOMAN LEGATION,
Washington, December 26, 1874. (Received Dec. 26.)

MR. SECRETARY OF STATE: Referring to the note which I took the liberty of addressing to you on the 3d of August last, (No. 1420,) in reply to your communication of the 23d of July previous, in relation to

the tonnage question, I have the honor to inform you, by order of his excellency Aarifi Pasha, minister of foreign affairs, that information has been sent, through His Highness the Khedive of Egypt, to the Suez Canal Company, concerning the measure which you mentioned to me, and which has been adopted by the Government of the United States.

I am, moreover, instructed to express to you, Mr. Secretary of State, the sincere thanks of the Sublime Porte for the favor with which you have received our suggestions in relation to the tonnage question.

I am very happy to perform this agreeable duty; and I beg you, Mr. Secretary of State, to accept, &c.

G. D'ARISTARCHI.

No. 642.

Aristarchi Bey to Mr. Fish.

NEW YORK, *August 25, 1875.* (Received August 27.)

SIR: The Sublime Porte has been apprised with regret of the arrival of two men-of-war of the Federal Navy in the harbor of Tripoli, in Africa, sent for the purpose of demanding redress for certain grievances, the extent and details of which we ignore, for they have not been brought directly to our knowledge. If, as the public voice says, it is a question of insult which may have been extended to the consul of the United States at Tripoli, the imperial government, you may be assured, will regret it profoundly, and is perfectly ready to examine into the complaints which the United States Government may bring forward, either on the part of this official or any other against the imperial authorities of Tripoli, and to give full and complete satisfaction, within the bounds of legality and justice. However, as the presence of American men-of-war in the waters of Tripoli, in Africa, seems to be prejudicial to the sovereign rights of the empire, I pray you, Mr. Secretary of State, to cause their withdrawal. I feel at liberty to add, on this occasion, that as Tripoli is a province of the Ottoman Empire, under the administration of a governor-general appointed by H. I. M. the Sultan, and an appendage of the imperial government, any grievance existing against the administration of that province should be addressed to the Sublime Porte. S. E. the minister of foreign affairs, appealing to your great wisdom and elevated sentiments, believes himself entitled to hope that you will give to this affair the solution to which we aspire.

Receive, &c.

G. D'ARISTARCHI.

No. 643.

Mr. Hunter to Aristarchi Bey.

DEPARTMENT OF STATE,
Washington, August 27, 1875.

SIR: Your note from New York, of the 25th instant, has been received. It requests the withdrawal from Tripoli of certain United States men-

of-war, of the presence of which you say your government had been apprised.

In reply, I have to state that this Department has no other official knowledge than that contained in your note as to the visit of such vessels to that place, or as to the object of that visit, as represented by you. Inasmuch, however, as, on behalf of your government, which you say claims Tripoli as its dependency, you express a disposition to examine any complaints which this Government may have against Tripolitan authorities, and to give lawful and just satisfaction therefor, the Secretary of the Navy has been requested to order the departure of any United States men-of-war which may be at Tripoli. It is to be understood, however, that this step must not imply any such acknowledgment of the sovereignty of the Sublime Porte in that quarter as would impart invalidity to the treaties between the United States and Tripoli as an independent power. All matters connected with this question will be reserved for such discussion hereafter as may be deemed necessary.

I avail myself of this occasion, sir, to offer to you the assurance of my very high consideration.

W. HUNTER,
Acting Secretary.

EGYPT.

No. 644.

Mr. Beardsley to Mr. Fish.

No. 248.]

AGENCY AND CONSULATE-GENERAL
OF THE UNITED STATES IN EGYPT,
Cairo, December 15, 1874. (Received January 20, 1875.)

SIR: I have the honor to transmit herewith four inclosures, relating to the conditional acceptance by the Versailles government of the project of judicial reform in Egypt.

Inclosure 1 is an official note from the minister of justice, in which his excellency informs me that the negotiations with France have been brought to a satisfactory conclusion, and the final result embodied in a protocol, signed at Cairo on the 25th day of September, 1874, by Cherif Pasha, minister of justice, on the part of the government of Egypt, and the Marquis de Cazaux, agent and consul-general, on the part of the government of France, to which the Versailles cabinet has given in its adhesion, subject to the approval of the National Assembly. His excellency incloses a copy of the protocol in question; enumerates the different points concerning which the two governments have been so many months at variance; explains the result of the final negotiations; and, in conclusion, expresses the conviction of His Highness the Khedive that the Government of the United States will approve of the terms of the protocol signed with France, and continue to lend its powerful support to the work of reform in Egypt.

Inclosure 2 is a translation of the protocol, with a copy of the original in French. It stipulates, 1st, that indictments for fraudulent bankruptcy, alluded to in article 8, paragraph G, title second of the organic regulations, shall remain within the competence of the French tribunals; 2d, that one of the judges of the courts of first instance shall be

chosen from among French magistrates in the same manner as is provided for the nomination and appointment of judges to the court of appeal; 3d, that one member of the "parquet," or attorney-general's office, shall also be chosen from among French magistrates; 4th, that the agent and consul-general of France shall, after a certain delay and in a certain manner, point out to the minister of justice particular points in the codes which require revision and elucidation; 5th, that the "*statut personnel*," omitted in the organic regulations, shall be re-inserted in the revised regulations; 6th, that the Egyptian government shall call the attention of the new magistracy to the desire expressed by France that one of the magistrates called to try European cases shall be of the same nationality, if possible, as the party to the suit; 7th, that all the immunities, privileges, prerogatives, and exemptions now enjoyed by foreign representatives, consuls, vice-consuls, and their subordinate officers, shall be maintained, and that the new laws shall not be applied to their persons or to their dwelling-houses; 8th, that the new laws shall have no retrospective effect; 9th, that claims now pending against the Egyptian government shall be submitted to a commission of three magistrates of the court of appeal, whose judgment shall be final; 10th, that if the claimants prefer, they may submit their claims to special chambers, one of first instance and one of appeal, as already agreed upon between the Egyptian and Austrian governments; 11th, that in cases where the claimants are of several different nationalities, the manner of trial shall be determined upon by the respective consuls-general; and 12th, that the settlement of such cases shall commence on the establishment of the new tribunals.

These twelve points are all virtual concessions on the part of the Egyptian government, and they undoubtedly strengthen the guarantees heretofore given to the foreign powers.

Inclosure 3 is an official note from the minister of justice, bearing the same date as inclosure 1, and received at the same time. The minister states that the Khedive has given orders that one judge for the tribunals of first instance and one substitute (member of the *parquet*) shall be chosen from among the magistrates of each of the great powers, subject, however, to the said powers deeming it expedient to propose such magistrates; and he asks me to submit the matter to the Government of the United States, and to inform him as soon as convenient whether our Government deems it necessary, in view of American interests in Egypt, to designate to His Highness proper persons for the positions mentioned.

The judge's salary will be thirty thousand francs a year, the contract to be for five years, and three months' salary for traveling expenses, &c. In case of illness, rendering him unfit for service, one year's salary, and on the expiration of the five years' service the same amount in lieu of a pension. In case of death a year's salary to his widow or children. The terms of contract with the substitutes will be the same, except that their salary is fixed at twenty-five thousand francs, and their term of service is at the pleasure of the Egyptian government.

Inclosure 4 is the revised regulations, which have just been issued.

I am unable to state at this early moment just what steps will be taken by the other great powers in regard to the franco-Egyptian protocol; but it is generally believed here by their representatives that it will be favorably received. General Stanton, Her Britannic Majesty's agent and consul-general, informs me that the government of Great Britain has signified its intention of nominating a magistrate and substitute, but he has received nothing official from the foreign office as yet.

I presume it is not necessary that our Government should take any official action in this matter one way or the other, as we will in any event reap whatever advantages may accrue to any other power.

If, however, in view of our present and prospective interest in Egypt, it is deemed expedient to nominate two magistrates for the positions indicated, great care should be taken in their selection. A thorough and practical knowledge of the French or Italian language is an absolute necessity, especially for the lower courts.

I am, &c.,

R. BEARDSLEY.

[Inclosure 1 in No. 248.—Translation.]

Cherif Pasha to Mr. Beardsley.

MINISTRY OF JUSTICE, November 19, 1874.

BEARDSLEY, Esq.,

Agent and Consul-General for the United States of America:

SIR: I have the honor to inform you that the Versailles cabinet has given in its adhesion to the project of judicial reform in Egypt, subject to approval by the National Assembly.

The Government of the United States of America, prompted by feelings of high benevolence toward Egypt, was pleased, since the commencement, to acknowledge the judicial reform as an achievement of civilization and progress, to the realization of which we were urged with constant and equal solicitude on the one hand by the ever-growing importance of our commercial and industrial relations with Europe and America, and on the other hand by the strong securities to be afforded to the weighty interests at stake.

The adhesion given by the United States Government is a striking token of its high sympathy for a work with which public welfare in Egypt is so intimately connected, wherefore the Khedive's government feels it a duty, dictated by its gratitude toward the American Government, to state summarily for its information the points on which negotiations with France were conducted, and which of late have been fortunately brought to such a satisfactory conclusion.

The first point had reference to bankruptcy matters.

In the first instance, the French government had expressly stipulated, and the Khedive government had agreed thereto, that all suits having reference to the "personal statute" should belong to consular jurisdiction.

Hence declarations of bankruptcy, which so deeply affect the status and capacity of persons, were naturally to be reckoned among such reserved cases.

The Versailles cabinet, however, appreciating the reasons set forth by the Khedive's government, and which were suggested to us by our most sincere wish to afford to commercial interests of Frenchmen in connection with other nationalities in Egypt, more efficacious protection and more serious security, the Versailles cabinet desisted from the strictness of the principle, and did accede, as other powers had done, to the competency of the Egyptian jurisdiction in matters of bankruptcy.

Yet one difficulty remained to be overcome, that is to say, with reference to indictments for fraudulent bankruptcy. The French government contended that it would not be consistent with the principles of sound administration of justice to disjoin the attributes of penal authority. This particular point gave rise to long negotiations, which it would be superfluous to state here.

Notwithstanding the reasons advanced by government, and which were of a certain weight, the Khedive did not conceal his wish that France should partake of the concert of the powers whose adhesion to the judicial reform was now an accomplished fact. The interest of this great deed of progress, its unity of action, required common exertion and understanding between all parties concerned. France, whose commercial and industrial relations in Egypt are so extended, and whose colony is so important, could not and would not remain a stranger to the collective desire expressed by the powers to see uniform judicature established in this country, so as to afford protection to all kinds of interests, and therefore the Khedive, founding his decision on this course of ideas, of which the importance cannot, sir, escape your attention, and considering on another hand the extremely rare occurrence of such cases as contemplated in article the 8th, paragraph G, of the organic regulations, (*règlement organique*),

has left the cognizance of felonies in the matter of fraudulent bankruptcy, as in the past, to the competency of the jurisdiction of the accused.

The second point concerns the constitution of the inferior tribunals, (*tribunaux de première instance*.)

The French government, founding its demand on the importance of its own colony, as well as those of other great powers, desired that the judges in the inferior tribunals should belong partly to the great powers. The Khedive having already from the first applied to the great powers for the proposal by them of magistrates to sit in the court of appeal, found it very easy to accede to the desire expressed by the French government concerning the formation, which it is now admitted becomes necessary, of a second chamber in the inferior tribunals at Alexandria, which, after all, would allow the appointment of such judges as might be proposed by the great powers without precluding those belonging to minor powers.

The proposal of a "substitute" (pro-attorney-general) of French nationality is the third point of the arrangement concluded with Marshal MacMahon's government. His Highness did the more willingly accede to the desire expressed by the Versailles government on this point, as it was within the Khedive's views to have the parquet (the attorney-general's office or court) partly formed of foreign magistrates, and that accordingly application for "substitutes" had already been made by the Egyptian government to several powers.

The fourth point was with regard to the codes.

The French government called our attention to the obscurity and to certain contradictions that had slipped in in the framing and wording of our codes. We answered that while upholding the judicial principles which constitute the groundwork of our codification, and which have been acknowledged by the powers as being consistent with modern judicial principles, the Khedive's government, in the interest of a sound legislation that should offer on its application the least possible discrepancies, did appreciate with all due attention such proposal, and that a commission created by us, and chosen from among the appeal-court counselors, would be appointed to inquire into the importance of the alterations suggested by the French government, with a view to remove, if needs be, such contradictions and obscure matter as were brought to our attention.

Fifthly. The French government desired that the reservation respecting the personal statutes, which had been omitted in article the 9th of the organic regulations, should be inserted also in the text of the said regulations. There was, and there could be, no objection on our part with reference to this point, the reservation in question being written in clear words on the face of our civil code.

Lastly. The remaining articles of the convention concluded with the French agent and approved by the Versailles cabinet, concerning the constitution of the chambers, consular immunities, and the mode of settling pending claims, do not differ in the slightest degree from what has been agreed with other powers.

Only with reference to pending claims, the French government, while adhering to what had been accepted by other powers, proposed to the Egyptian government several other more speedy modes of settlement, considering the large amount of French claims and the delay they might have incurred, had they to undergo the two degrees of jurisdiction.

Such considerations led on our part to a proposal which was adhered to by the French government, as offering all desirable guarantees; that is to say, the appointment of a commission composed of three of the members of our appeal court, to whom pending claims would be submitted, and whose decision would be final and admitting of no appeal, unless, however, the interested parties should prefer having such claims brought before a special chamber in first degree, (*première instance*,) and another special chamber in appeal, thus following the arrangements entered into between several other powers and the Egyptian government.

This is a summary of the *ensemble* of the convention concluded on the 25th of September ultimo, approved by the Versailles cabinet, and of which I have the honor to subjoin herewith a copy, together with a copy of the new organic regulations.

From the premises and by perusal of the above convention, it may easily be inferred that no privilege has been granted to one power to the detriment of other powers. On the contrary, it might be said with reason that the securities afforded to the powers have been thereby improved.

His Highness, therefore, is thoroughly convinced that the Government of the United States, concurring in the Khedive's views, will appreciate as it deserves the present communication, and will in consequence continue to lend its powerful and kind support to the work so eminently profitable to the reform.

In communicating to you, sir, this solution, through which the last obstacle to the establishment of the new judicial institution in Egypt is now removed, I avail with eagerness of this opportunity to renew in the name of the Khedive's government the expression of our feelings of gratefulness toward the American Government for its kind and constant concurrence, a deed which on many grounds so highly concerns

the subjects (citizens) of the United States, as well as our own nationals, and of which the wise and skillful application shall secure to foreigners their lawful interests and at the same time allow of the country improving and extending, under the safeguard of sound administration of justice, its resources at home as well as its international relations.

I have the honor, &c.,

The minister of justice,
CHERIF.

CAIRO, November 19, 1874.

[Inclosure 2 in No. 243.—Translation.]

Protocol signed between his excellency Cherif Pasha, minister of justice, and the French consul-general in Egypt.

On the twenty-fifth day of September, one thousand eight hundred and seventy-four, his excellency Cherif Pasha, minister of justice to His Highness the Khedive, and Monsieur le Marquis de Cazaux, agent and consul-general of France, acting by order and pursuant to instructions from their respective governments, having held a conference for the purpose of coming to a final understanding respecting the conditions on which the French government would adhere to the judicial reform in Egypt, have agreed as follows:

First. Indictments for fraudulent bankruptcy, alluded to in article 8, paragraph G, title the second, of the original regulations, shall continue, as in the past, to be within the competency of the jurisdiction of the accused.

Second. With regard to the choice of one of the judges of the courts of first instance, the Egyptian government shall apply to the ministry of justice in France, in the form provided for the nomination of judges for the appeal court, and the magistrate thus designated shall be in preference appointed to sit in the Cairo tribunal.

Third. One of the members of the public ministry (attorney-general's office or parquet) shall be chosen from among the French magistracy, and it is expressly understood that in the event of a second chamber being created within one of the Cairo or Zagazic tribunals, another member of the public ministry shall also be chosen from the among the French magistrates.

Fourth. With reference to the revision of the codes, the agent and consul-general of France shall address to his excellency Cherif Pasha, within fifteen days from the notification by the French cabinet of its approval to the Egyptian government, a statement as to the particular points requiring elucidation in the wording and system of the new laws, and suggesting such alterations as may be thought necessary to remove any contradictions therein contained.

Fifth. The reservation respecting the "*statute personnel*," omitted in article 9 of the organic regulations, shall be re-inserted in the text of the said regulations.

Sixth. With reference to the constitution of the chambers, the French government, having desired that one of the magistrates called to try European cases be, as far as possible, of the same nationality to which the party in the suit belongs, the Egyptian government engages itself to call the attention of the new magistracy to this point which alone is intrusted with the organization of its own service.

The same answer was given to the Austro-Hungarian government, which had expressed an identical desire.

Seventh. The immunities, privileges, prerogatives, and exemptions actually enjoyed by foreign consuls, as well as by their subordinate officers, by virtue of diplomatic usage and of treaties in force, shall be maintained in their integrity. Therefore agents and consuls-general, consuls, vice-consuls, their families, and persons attached to their service, shall not be amenable to the new tribunals, and the new laws shall not be applied either to their persons or to their dwelling-houses. The same reservation is stipulated with respect to Catholic establishments, whether religious or educational, placed under French protection.

Eighth. It is well understood that the new laws and new judicial organization shall have no retrospective effect, according to the principle laid down in the Egyptian civil code.

Ninth. Claims now pending *against* [see original, "*entre*," which means "between," cannot stand here.—TRANSLATOR] the Egyptian government shall be submitted to a commission consisting of three magistrates from the appeal court, chosen by mutual consent by the two governments. The said commission will decide finally, and without appeal, and will itself prescribe the form of procedure to be observed.

Tenth. However, the said claims, if the interested parties so prefer, may be brought before a special chamber of first degree, (instance,) and another special chamber of

appeal, consisting of magistrates belonging to the tribunal and to the appeal court, respectively, and constituted according to the provisions already agreed upon between the Egyptian government and the Austro-Hungarian government, and several other powers. The above two chambers, although proceeding in conformity to the rules of procedure for the new tribunals, shall, nevertheless, try the merits of the case in conformity to the laws and customs in force at the time of the occurrence of the facts which gave origin to the claim.

Eleventh. Cases in which claimants of several nationalities are concerned shall be tried in conformity to either of the two above modes, as may be agreed upon by their respective consuls-general.

Twelfth. The settlement of the above-indicated cases shall commence at once on the establishment of the new tribunals, and shall continue so long as the said tribunals remain in operation.

The stipulations contained in the present *procès-verbal* shall be submitted without any delay to the two governments, respectively, for ratification.

CHERIF.
CAZAUX.

[Inclosure 3 in No. 243.—Translation.]

Cherif Pasha to Mr. Beardsley.

NOVEMBER 19, 1874.

SIR: The Khedive having directed that one judge for the inferior tribunals (*tribunaux de premiere instance*) and one substitute (pro attorney-general,) both of them belonging to each of the great powers, be called to form part of the new judicial organization, subject however to the said powers finding it expedient to propose to His Highness's choice the two above magistrates, I have, therefore, the honor to request you will kindly submit the matter to the Government of the United States of America, and to inform me at your earliest convenience whether the American cabinet would find it necessary, with a view to American interests that may exist in Egypt, to take part in the said arrangement, by designating for the Khedive's appointment one judge for the said tribunals and one substitute.

The judge's position will consist of thirty thousand francs' allowance per annum—five years' engagement; three months' salary in lieu of traveling and settling expenses. In the event of illness, such as would occasion unfitness for service, one year's allowance. On the expiration of the five years, one year's allowance in lieu of retiring pension. In case of death, one year's allowance to his widow or children.

The same terms are made with regard to the substitutes, excepting their allowance, which is fixed at twenty-five thousand francs per annum, and under the following proviso: Pursuant to the provisions of the rules, (*reglement*,) and of its own nature, their office being removable, one year's stipend to be allowed to them should government find it necessary to give up their services before the expiration of the above-mentioned period of five years.

I have the honor, &c.,

CHERIF.

BEARDSLEY, Esq.,

Agent and Consul-General of the United States of America.

No. 645.

Mr. Beardsley to Mr. Fish.

No. 258.]

AGENCY AND CONSULATE-GENERAL

OF THE UNITED STATES IN EGYPT,

Cairo, December 28, 1874. (Received February 3.)

SIR: I have the honor to inclose herewith a copy of a letter received from Lieut. Col. Charles Long, written at Khartoum, under date of November 7, 1874, and giving a brief sketch of a hazardous journey to Lake Victoria and King M'Tse of Ugauda, which he had just success-

fully accomplished in obedience to the orders of the Egyptian government.

Lieutenant-Colonel Long was mentioned in my dispatch No. 178, of March 9, 1874, as the American officer who accompanied Colonel Gordon as chief of staff in his expedition to the Soudan and Central Africa, which left Cairo in the early part of this year.

The results of Long's journey are looked upon as important by the Egyptian government, and he has been advanced to the grade of colonel and decorated with the order of Megidi.

I forward the colonel's narrative to the Department, in the belief that it will prove interesting to all who take an interest in the solution of the many geographical problems of Central Africa. I also inclose herewith a map of the Soudan and the lake region of Central Africa, upon which I have traced the route taken by Colonel Long. I have also endeavored to trace as near as possible the route taken by Dr. Schweinfurth, the German traveler, in his journey to the west of the White Nile, in 1868-1871, as narrated in his interesting work entitled "The Heart of Central Africa." This map has been kindly furnished me by the Egyptian war office, through the courtesy of the chief of staff, General Charles P. Stone.

Colonel Long's route, going south, was from Gondokora to Fatiko, Foweira, M'rool, nearly due south; and from M'rool, SSE. to the residence of M'Tesa, the King of Ugauda. Thence he visited Lake Victoria and sailed upon its waters. From Lake Victoria he returned to M'Tesa's residence, and from thence to Mandagani, where, embarking on the river in canoes, he proceeded northward through the newly discovered lake to "M'roole," where he was attacked by the natives in boats and had a prolonged and desperate fight, finally driving the enemy off and escaping down the river to Foweira, and thence returned to Gondokora by way of Fatiko.

The chief geographical features of this expedition are, first, the statement of Colonel Long that the Victoria Nyanza is not more than twelve or fifteen miles wide, Speke having magnified it to an inordinate extent; second, the discovery of a new lake between the Victoria Nyanza and the Albert Nyanza; third, the practical demonstration of the navigable condition of the Victoria Nile between Mandagani and Foweira; and, fourth, the opening of the road between Ugauda and Gondokora, and the establishment of amicable relations between the redoubtable M'Tesa and the Egyptian government.

I am, &c.,

R. BEARDSLEY.

[Inclosure 1 in No. 258.]

Colonel Long to Mr. Beardsley.

KHARTOUM, November 7, 1874.

MY DEAR MR. CONSUL-GENERAL: I returned from the equator at Gondokora the 18th ultimo. Two days afterward I was *en route* for Khartoum, per steamer "Bordeue," to communicate the result of an expedition undertaken 24th April last. I arrived here the 6th instant to find your very kind letter and package of papers, delivered to me by two English officers that join the expedition. I regret the non-reception of any other letters or papers which you have kindly sent me; I suspect they may lie among the sealed effects of Major Campbell, who died here of typhus.

The information I give you, Mr. Consul, is in no wise secret, and you may use it as you see fit. It interests Egypt and the world, since Egypt to-day follows America in the emancipation of slaves and the disenthralment of that benighted Africa which bequeathed to us in America the saddest of legacies. I gladly resume a busied pen to relate to you, *dans un bref sommaire*, that of which the telegram has already informed

you. *Bref*: I left Gondokora April 24; with me I had 80 soldiers, regular, and 60 irregular, and 300 porters, a force returning to several stations on my route. My expeditionary force proper consisted of two soldiers, black Saïd and Abdel Rhaman, who proved themselves my faithful and courageous aids, and a worthless servant and a dead-beat, Alsacien, Selim, a Speke soldier, speaking Ugunda, *voilà tout*.

Arrived at Foweira, a fort of 150 soldiers, near Karuma Falls, I commenced my uncertain plunge into jungled Africa; hardships of the route, fearful rains, miseries, incessant fevers, are long and unpleasant details. I arrived in Ugunda the 20th of June. My reception was marked by all the pomp and display of barbarian splendor and enthusiasm possible to imagine. I was long heralded on the route to this great African chief M'Tse, (M'tesa.) Myself and horse were objects of great astonishment to this curious populace, who, neatly attired in a toga of yellow bark cloth, followed me, to the number of 2,000, along the broad and well-swept road. Neat tents of straw scattered here and there; the country mountainous and picturesque, marred by the inevitable marsh that lies in the intervals of the hills. M'Tse, with his numerous attendants, viewing me from the distance, orders me houses, and wishes to see me on the morrow.

At 8 o'clock I am presented through seven gates that swing from high gross walls. I pass the stinking carion (?) till at the portals of a bee-hive hut stands M'Tsa. The distinction and honor he does me is recognized by the prostrate M'Ugunda, dressed in rich Arab robes. He graciously salutes me, and with a lion-like tread retreats backward to his seat, (chair covered with cloth and bordered with gold-work.) I am offered a stool, the refusal of which to Speke is the burden of his wrath at an indignity offered to Her Britannic Majesty's subject. The salutations passed, I addressed him as the great king of Africa, to whom I have come on the part of the great Sultan at Cairo to bear him friendly salutations, &c. M'Tse is delighted; the courtiers that sit upon their knees acclaim "sbeech." Thirty men are seized without delay by the executioners, who, with cords around their heads, stand ready to do their imperious and capricious master's will. Quickly bound, they are decapitated at ten paces from without. This was force, that great power that is ever dominant with the African.

Subsequent visits were attended always by the execution of eight to ten. Permission to visit Lake Victoria was accorded me, but it cost the lives of several self-constituted spirits of the lake that oppose and even murder his subjects. Permission to return by the river was attended by a like sacrifice.

Dr. Livingstone, in his letter from Lake Bangeowlo, of South Central Africa, to Stanley, says: "I wish someone would visit M'Tse or Ugunda without Bombay as interpreter. He, Bombay, is by no means a sound authority. The King of Dahomey suffered eclipse after a common-sense visit, and we seldom hear any more of his atrocities. The mightiest African potentates and the most dreadful cruelties told of Africans owe a vast deal to the teller." Dr. Livingstone, you will see, is not authority on this subject, and the affair at Cowassie narrated by Stanley is the proof. But this is digression. For your information, here are a few data concerning the hitherto unknown country of Ugunda. Country, mountainous, picturesque; soil, fertile, impregnated here and there with iron, cristal de roche, and argile; climate, insalubrious and debilitating for Europeans; spring, summer, and autumn, diurnal and eternal; the morning in spring, 10 to 4, intense heat; evening and night, rain and chilly; month of July, rain less frequent; woolen clothes a necessity. Here you have the climate of Central Africa, about which so much is said and yet so little known.

Coffee growing wild; sweet potatoes, Indian corn, sugar-cane, are its vegetable products. Fruits and pomegranates are being planted; the whole country is a forest of bananas, the principal food of the M'Ugunda; merrissa is distilled and as an intoxicating drink largely indulged in.

Animals.—Zebra, great numbers of elephants, lions, leopards, and in fact almost every kind common to Africa.

Industry.—Fabric of bark of tree, a cloth worn by all, a sort of toga.

Money.—Shells and copper-wire.

Population.—I esteem at half a million.

Administration.—M'Tse, absolute.

Religion.—Moslem since four years, inculcated by traders from Zanzibar. Speke had the opportunity to have directed these people in the way of Christianity. To-day the government sends priests of Moslem faith, which, by the by, is a faith much better suited to them than the less demonstrative Christian faith. An unhealthy and deadly climate is this; in my opinion, withdrawn fortunately from the field of labor of the Christian missionary; a climate that can never be habitable for the white.

Origin.—Unknown. A white negro was brought to me by M'Tse, who sought to surprise me on every occasion. I confess his success. The boy had all the facial characteristics of the negro, but white as to his skin and wool, though there are numbers of the like. M'Tse, a man who, though ignorant, has proper intelligence, struggles for light to a certain point, (for you know, Mr. Consul, I am one of those who believe in that limited point to which the negro only can go.)

* * * * *

Permission was granted me to visit the Lake Victoria. I was met here by 1,000 men in bark canoes, like Indian canoes. I scanned closely its waters; sweet, light, no tides, no shells. The scenery here is indeed beautiful; the width of the lake cannot be more than 12 to 15 miles. Returning to M'Tse, I left to return, permission after much labor being accorded, accompanied by the execution of seven supposed spirits, guardians of the lake, who M'Tse told me would oppose my passage; the same idea that the river was impassable on account of rocks and rapids, savage and hostile tribes.

M'Tse, whom I had convinced of the importance of its navigation, succumbed only when his objections were met by the promise of a greater future to him, in the easy exportation of ivory. I had already his promise, and his action also to that end, in closing the road to Zanzibar, thus securing for the government at Gondokora, Colonel Gordon, a monopoly of ivory. That will make Egypt a great ivory market. M'Tse, who showed me great affection, urged me to desist, and said Speke tried it and failed. "You have only three soldiers; the government of the great Sultan will be angry if you are killed here." My importunities prevailed. I left M'Tse the 19th of July; his chiefs were my enemies, and caused me, in delays, &c., all kinds of misery, (see Speke.) What ought to have been three or four days' march only to Mondogani took twenty days; they robbed me of my baggage and food, and for four days, without food, save milk and bananas, I was deserted in a dense forest. M'Tse was furious when he heard of it and my losses. "How can I re-imburse you; will you receive ivory?"

I replied, no, only send me one honest man; I must push on. Suffering from a fearfully disordered stomach, which I had had for more than a month, and continued till I arrived at Latiko, (four months), had worn me to a skeleton. My two black soldiers even suffered, and my black servant and the Alsacien were swollen fearfully. Finally, I arrived at Mondogani, and, following the river, found there at length the much-coveted boats. In these I placed my baggage, and with one mutton, five pounds flour, and five pounds beans, I commenced the navigation of the unknown river. My soldier Selim I had instructed to follow me by the river, and at M'rooli await me. The chiefs and he went into camp, and the cattle sent me by M'Tse were consumed by them. After five days of rowing, weak and exhausted, aided only by Saïd and Abdel, I entered a lake having on my right a high mountain called Mount Tingé. The river loses itself in an immense lake or basin; the land itself is lost to view. The fact impresses itself upon me that I have discovered a great lake that is certainly twenty miles or more in width; great fields of a peculiar weed come up from thirty or forty feet depth, and lays its hat-shaped head upon the surface.

While this basin receives the waters of the plateaux, the water-shed of the Nile, in conjunction with the Lake Victoria—this is the great source of the Nile. I have an idea, too, that this *gerasch* weed holds in abeyance this great volume of water; that when dried up and having no vitality, periodical winds and heavy rains drive the waters no longer restrained into the Nile. This is the annual inundation of the Nile. Heavy storms set in, really fearful, and for two days, without compass, I wandered about this lake lost. Eight mouths were to be fed, and with only flour, no fire. Since I could not reach the shore that was nowhere to be seen, exhausted and nearly despairing. The storm ceased, and, aided by the scarcely visible polar star, I found at length the river. Arrived after seven days at M'roole, where I expected provisions. I was attacked by one hundred men of Keba Regas. My defense was desperate. I had fortunately plenty of cartridges. Saïd and Abdel were armed with Snyders; I had a splendid gun, Reilly, No. 8, Elephant, the first shot from which struck their chief, who, not heeding my expostulations, endeavored to flank me, full in the breast. He fell, and the effect of the shot was demoralizing, and yet the attack was renewed. From the two Snyders and my gun the fire was constant; boats were sunk, and after spending four hundred and fifty cartridges the fight became general, deserting their boats, and following me from midday till night. Two chiefs and eighty men were killed outright, while the only injury I received was an accidental shot in the nose that smashed the bridge and inflicted a painful wound.

That night I continued my route, and with scanty provisions arrived at Foweira, five days after, without provisions and in a pitiful condition. I had, however, obtained great results. Without recounting severe sufferings, despairing of ever returning, I arrived the 18th October at Gondokora. Colonel Gordon received me in a most affectionate manner. He said, "Lóng, you have done a great work; you merit well of your country. Go to Khartoum, it will do you good, and you must communicate to government and the world your work."

From Khartoum I write you this. Ansar, Dewitt, Sinant, and Campbell have succumbed to climate. Colonel Gordon, alone with the dying at Gondokora, I found well; he is the right man, and will quickly organize a government and administration that will fulfill the wishes of the viceroy.

And now, Mr. Consul, to an undue length I have detailed to you the outlines of an expedition whose duration was six months, and accomplishment of that which interests

Egypt and the world. If I have merited well of my country—little. If in what I have written you see that which you would like to transmit to geographical society or otherwise, Colonel Gordon assured me would be perfectly agreeable to the government, and in fact desiring me to do so.

I am suffering slightly from swelled stomach, in fact my whole frame; an Arab doctor tells me the effect of fever, &c., and that it will pass away, &c.

CHAS. C. LONG.

NOTE.—The original of the above was so hastily written, and on so thin paper, with bad ink, that much difficulty was experienced in reading it intelligibly.

R. B.

No. 646.

Mr. Beardsley to Mr. Fish.

No. 262.]

AGENCY AND CONSULATE-GENERAL
OF THE UNITED STATES IN EGYPT,
Cairo, January 1, 1875. (Received February 1.)

SIR: I have the honor to inclose herewith an official report by the governor-general of the Soudan, announcing the occupation by the Egyptian troops of the capital of Darfour, thus accomplishing the annexation of that kingdom to Egypt.

During the past year, several engagements have taken place between the Egyptian and the Darfourian troops, in one of which the Sultan of Darfour was killed, and on every occasion the Darfourian army was completely defeated and routed, the superiority of disciplined troops and modern weapons manifesting itself in the invariable victory of a few hundred troops over a numerically vastly superior enemy.

The conquest and annexation of Darfour is ostensibly made in behalf of law and order and for the purpose of suppressing the slave-trade, the principal marts of which have for years been the chief towns of that country, and the chief trader in the vile traffic the Sultan himself.

In former years, before the expeditions of Sir Samuel Baker and Colonel Gordon, the Nile was the main avenue by which the slave-trade with Lower Egypt and Turkey was carried on. Since those expeditions, however, the Upper Nile has been comparatively closed to the slave-trade, and a *cordon militaire* has been maintained at the frontier of Darfour to prevent the slave-traders from reaching the river. It has been impossible, however, to picket the entire length of the river, and undoubtedly many slaves have come down by the old route. A new route has of late years been opened through the desert, by which it is claimed that large bands of slaves have been brought to the very environs of Cairo. This route is only known to the slave-traders, and it is reported to be well supplied with water and by no means difficult to follow. The Egyptian government is now taking steps to explore all the caravan-routes leading from Darfour to the Nile and northward. Two expeditions left Cairo last month with instructions to make a thorough exploration of the country of Darfour and its avenues of traffic, to repair the wells on the caravan-routes for the benefit of legitimate trade, and to make careful topographical maps of the country and full reports concerning its resources and population. Each of these expeditions is under the command of American officers. I will transmit more minute particulars concerning their personal and proposed work in a future dispatch.

The Khedive is determined to suppress the slave-trade in the Soudan and among the tribes further south, and the annexation of Darfour is an im-

portant step in that direction. It is proposed to place the people of Darfour on the same footing with Egyptians. All natives held in bondage will be liberated, and all slaves who have been brought from the neighboring tribes within a certain time will be sent back to their respective countries. A vast fertile region, abounding in many of the resources of wealth, has for years been desolated by the horrible traffic in human flesh. It is a matter of vital importance to those countries themselves, as well as to the commerce and prosperity of Egypt, that the slave-trade should be suppressed and the energies of the people directed into the natural and legitimate channels of agriculture and commerce. This can only be accomplished under a strong and well-organized government. The annexation of Darfour, the expedition of Colonel Gordon, and the building of the Soudan Railway, are all most important steps toward bringing Africa, as far south as the equator, within the pale of law and order, and conferring upon it many of the blessings of civilization.

I am, &c.,

R. BEARDSLEY.

[Inclosure 1 in No. 262.—Translation.]

Dispatch of the governor-general of the Soudan.

Date, 27th Ramadan, 1291, (6th November, 1874.)

As I have already had the honor of informing Your Excellency, we have moved with our second detachment of troops, leaving Canua, and proceeding toward Tacher, capital of the ancient Sultan Darfour. During the voyage we granted amnesty to the inhabitants of the villages and the localities through which we passed. On the 27th Ramadan—6th November—we entered the town of the pasha, and we there met Zober Bey. To-day we occupy this town with the two detachments.

The inhabitants of the surrounding villages continue coming in crowds and offer their submission with eagerness. We give them every security and protection, and urge them to go back to their homes and resume their occupations. Among these villages there are some whose inhabitants were the slaves of Sultan Ibrahim, (deceased,) who disposed of them and of their children at his will, either in selling them or in giving them away.

Having heard of our entrance into Tacher, they hastened to come and place themselves under the protection of the government, whose sincerity we convinced them of in a most practical manner by delivering to them their emancipation-papers, and making them understand that henceforth they were free like the other subjects of the Egyptian government. They became very happy, and returned to their villages with demonstrations of joy.

Thus all the population of Darfour have submitted to our authority. The family of the Ex-Sultan of Darfour alone has refused to submit, and has retired into the mountains of the west, in the interior of Darfour, proclaiming as Sultan the Emir Hassab-Allah, uncle of the deceased Sultan Ibrahim.

We are organizing a detachment to follow them and give them security and protection, and at the same time to induce them to submit to our authority. If they persist in their refusal, such steps shall be taken as may seem necessary.

ISMAIL,
Governor-General.

No. 647.

Mr. Beardsley to Mr. Fish.

No. 268.]

AGENCY AND CONSULATE-GENERAL
OF THE UNITED STATES IN EGYPT,
Cairo, January 20, 1875. (Received February 13.)

SIR: I have the honor to inclose herewith a printed translation of an official notice issued by the Egyptian government in relation to the two exploring expeditions which left Cairo for Darfour and Central Africa.

last month, and which were referred to in my dispatch, No. 262, of the 1st of this month.

Colonels Purdy and Mason, of the first expedition, and Colonel Colston and Lieutenant-Colonel Reed, of the second expedition, are Americans. Colonel Purdy is the "E. Sparrow Purdy" mentioned in my dispatches (Nos. 47 and 72, of December 15, 1872, and March 5, 1873,) as being in command of an expedition then fitting out at Cairo, ostensibly for the relief of Sir Samuel Baker. Colonel Mason was second in command of that expedition, which, however, never left Cairo. Colonel Colston came to Egypt in the spring of 1873. He served as colonel in the confederate army during the rebellion, and afterward occupied the position of professor of geology in the Military University of North Carolina. Lieutenant-Colonel Reed was brevet colonel in the United States Army at the close of the war. He entered the Egyptian military service early in the spring of 1874.

I am, &c.,

R. BEARDSLEY.

[Inclosure in No. 268.—Translation.]

Official notice of the departure of two expeditions of exploration for Darfour and Central Africa.

On Saturday, December 5, two expeditions started by steamers for the Upper Nile. The first is composed of Staff-Colonel Purdy, (in command,) Lieutenant-Colonel Mason, Capt. Mahomed Sabriz, Lieut. Mahomed Samij, Lieutenant Saidnars, Sub-lieutenants Ahmed Ramsy and Khalil Helmy, and Army Surgeon Mahomed Amin. Twelve sub-officers and privates of the staff are also sent for surveying duties. The escort will consist of 4 officers and 63 sub-officers, privates, and military artisans.

The second expedition is composed of Staff-Major Colston, in command; Lieutenant-Colonel Reed, adjutant; Major Ahmed Hamdy; Lieutenants Yussif Helmy, Amer Ruchdy, Khalil Tanzy, and Mohamed Mahe; Army Surgeon Mohamed Ferid, and Dr. Pfund, naturalist. Twelve officers and men are assigned for surveying duties. The escort is similar in composition to that of the first expedition.

These two expeditions will make the voyage together as far as the Wadi Halfa, and thence by camels to Wadi el Hamed. Thence Colonel Purdy has orders to leave the Nile, and to advance through the desert to the oasis of Selimeh, and from there to proceed by the caravan route to the capital town of Darfour. He takes with him appliances for improving the existing wells and for forming others in order to insure the sufficient supply of drinking-water required for the use of caravans coming from Darfour. Colonel Colston with his party will proceed along the Nile to Debbe. Thence he will make and examine the direct line to Darfour, in order to ascertain what facilities are requisite for the opening of a new and shorter route between the Nile and Darfour. Afterward he will leave Debbe and advance to Obeid, the capital of Kordofan, making a map of the route, improving the springs, wells, and reservoirs, for the purpose of facilitating the transit of caravans and preparing a plan for a carriage-road between Debbe and Obeid. The vicinity of Obeid will be examined and a map prepared, after which Colonel Colston will proceed to examine the country between Obeid and Darfour.

The two expeditions, reuniting at Darfour, will make careful investigations of the country from east to west and from north to south, and will report upon its resources of all kinds, its climate, population, &c.

Upon reaching the southern limit of Darfour, the two parties will again separate. That under Colonel Purdy will follow the course of the streams flowing from Darfour to the southeast, and will ascertain their embouchures; it will afterward proceed to the mouth of the river Sobat.

Colonel Colston will examine the southern portion of the countries of Kordofan, Jag-galet, and Schellouk, and will also proceed to Fashoda, or to the junction of the rivers Sobat and Nile. Upon reaching Fashoda, which is situate within the provinces attached to Colonel Gordon's government, the party will take orders and instructions from him.

After obtaining there provisions and necessary supplies, and forwarding their maps, reports, and specimens, the two corps will start southwest in order to fully investigate the country to the west of Lake Albert to a point beyond the equator. One party will

examine the banks of the Lake Albert, and will take soundings, while the other will explore the country to the westward of the high mountains, near the shores of the lake, the district of Niam Niam, &c.

The parties are provided with surveying and land-measuring instruments, Abyssinian pumps, and mining appliances, so that they may be enabled to report upon the resources of the countries which they will traverse and become acquainted with their geography. With the means at their disposal, it is hoped that the works indicated may be carried out within a period of two years or two years and a half.

Another expedition will be dispatched next week, composed of Mr. Mitchell, a mining engineer, two staff officers, and a detachment of troops of the staff, to make geological and mineralogical examination of the countries lying between the Nile and the Red Sea, Nubia, and the Eastern Soudan, up to within a short distance of the river Sobat.

The original of the above is in French, and signed by Chas. P. Stone, chief of staff to the Egyptian army.

No. 648.

Mr. Beardsley to Mr. Fish.

No. 273.]

AGENCY AND CONSULATE-GENERAL
OF THE UNITED STATES IN EGYPT,
Cairo, February 4, 1875. (Received March 5.)

SIR: I have the honor to inclose herewith a translation of a communication from the minister of foreign affairs in regard to certain measures proposed to be taken by the Egyptian government with the view of unifying the postal service in Egypt preparatory to the application of the terms and provisions of the postal treaty at Berne, the Egyptian government having participated in the postal convention at Berne and given its adhesion to the treaty.

Foreign post-offices were established in Egypt many years ago to meet the wants of the different foreign colonies residing in Egypt, and at a time when there was, practically, no local postal service. They were a necessity of the times, each foreign colony depending upon its own national postal service for its mail facilities. Wherever a European colony of any considerable numbers sprung up there was established a foreign post-office, entirely independent of the Egyptian government. Thus, at Alexandria there were the English, French, Italian, Russian, Greek, and Austrian post-offices, each monopolizing the postal business between Egypt and its own country in Europe. The greater number of these offices still exist at Alexandria, but Egypt, for several years, has maintained an excellent postal system herself, which she continues to perfect and develop, and which has so ameliorated the situation that the necessity for foreign offices at Alexandria no longer exists.

The foreign post-offices, however, still exist, and they continue to receive and distribute all mail-matter arriving from Europe, notwithstanding the fact that the same work could be better and more expeditiously performed by the Egyptian post-office.

The inconvenience of this multiplicity of post-offices is at once apparent. Letters arriving by the English mail must be inquired for at the English post-office, those arriving by the French mail at the French post-office, and so on. If not inquired for, they are not delivered, so that travelers or strangers in the country often fail to receive their letters, simply because they do not apply at the proper post-office.

In former years there were four or five foreign post-offices at Cairo, but they have all been withdrawn within the last few years except the French office, which will be withdrawn this year.

The Egyptian government now desires, as you will perceive by the inclosed circular, to take under its own care the entire postal service of Egypt, and it hopes to induce the foreign powers to withdraw their post-offices now on Egyptian territory. The government asserts, and certainly with much truth, that the monopoly of the postal service within its own territory is necessary to enable it to comply with the provisions of the treaty of Berne. In considering the Egyptian government's desire, the foreign powers who have post-offices in Egypt will naturally inquire whether the present postal system meets the wants of the country and the demands of commerce, and whether it is prepared to take the place of the foreign post-offices now in operation. I think these questions may be answered in the affirmative. The postal system of Egypt, although not perfect, is well and thoroughly organized. It works smoothly and with precision, and seems to answer all the requirements of the age. Its offices are commodious and well distributed, and conveniently located. At Cairo a fine and substantial building was completed last year, by the government, for the post-office, where it is now installed. The Egyptian postal system is indebted, in a great measure, to Muzzi Bey, an Italian, for its present development and satisfactory condition. Muzzi Bey has devoted many years to its organization and development, and he cannot regard its present condition otherwise than with pride and satisfaction.

It is believed that the Egyptian government will experience no serious difficulty in its efforts to obtain the withdrawal of the foreign post-offices and its resumption of a right which in theory can hardly be contested.

I am, &c.,

R. BEARDSLEY.

[Inclosure 1 in No. 272—Translation.]

The minister of foreign affairs to Mr. Beardsley.

CIRCULAR.

MINISTRY OF FOREIGN AFFAIRS,

Cairo, January 6, 1875.

MONSIEUR AGENT AND CONSUL-GENERAL: You are aware of the treaty which was lately concluded at the international congress at Berne, with the object of simplifying and unifying the postal service over a vast extent of territory, under the designation of the general postal union.

The treaty is to go into effect the 1st of July, 1875.

The government of His Highness the Khedive, invited to participate in the congress, hastened to respond to the invitation, which was the most honorable testimony in favor of the efforts and sacrifices which it has never ceased to make to organize the postal system of Egypt, and adapt it to the wants born from the development, each day more marked, of its amicable relations with other countries.

Convinced of the eminent utility and civilizing effects of the work of the congress, which must unite by a common link so many different countries, it gave its adhesion, without reserve, to the conclusion of the treaty, and consequently to the obligations which go with it.

The first of these obligations for each of the contracting countries is naturally to contribute all in its power to the complete realization of the idea of simplification and unification which constitutes the principal base, the essential condition of the treaty. This obligation the government of His Highness would not be able to fulfill if it did not take measures from the present moment to secure postal unification within its own territories. Occupied at different points by foreign post-offices, which were established at a time when the situation was entirely different, this territory finds itself divided into as many different postal jurisdictions as offices.

The continuation of such a condition of things is evidently inconsistent with the idea of unification, the fundamental idea of the treaty, the application of which would meet with permanent resistance and an obstacle in these different postal jurisdictions.

The government of His Highness, in a spirit of conciliation towards friendly governments, has permitted these to exist, without, however, implying by this tolerance, the abandonment of its rights. To-day it finds itself, led by the treaty of Berne as well as by the situation, which is profoundly modified, to resume the exercise of this right in its integrity, without, however, desiring in any manner to interfere with the transit of the mails through Egypt.

Postal monopoly being the incontestable privilege of every government, His Highness, the Khedive, hopes, Mr. agent and consul-general, that the Government of the United States, with that high sense of right and justice which habitually guides it, will recognize that the Egyptian government in expressing its intention to avail itself of the position which is legitimately due to it, is guided only by the desire of placing itself in a better position to carry out the objects of the general postal union.

Accept, M. agent and consul-general, the expression of my high consideration.

RIAZ.

No. 649.

Mr. Beardsley to Mr. Fish.

No. 276.]

AGENCY AND CONSULATE-GENERAL
OF THE UNITED STATES IN EGYPT,
Cairo, February 13, 1875. (Received March 12.)

SIR: I have the honor to inform you that the Hellenic government has finally given in its adhesion to the project of judicial reform in Egypt, and that Greece will be represented in the new tribunals by two judges who will have seats in the courts of first instance.

M. Manos, the consul-general of Greece in Egypt, demands, in consideration of the size and importance of the Greek colony in Egypt, that his government be permitted to appoint a judge and a substitute as provided by the Franco-Egyptian convention. The Egyptian government answers that the said convention only applies to the great powers, but that if any of the great powers decline to take advantage of the provision which permits them to appoint magistrates, Greece may be permitted to fill the vacancy by appointing a Greek magistrate and substitute.

M. Manos approached me on the subject a few days ago, for the purpose of discovering whether we would appoint a judge and substitute or not. I answered that we probably would, but that I had no information from you on the subject as yet. Whatever we may do in the matter, at this time, I presume that we will not relinquish to any other government any of our rights under the Franco-Egyptian or other convention.

The French Assembly has not taken final action in regard to judicial reform as yet, and considerable anxiety is felt here as to the result, as the project is now so far advanced that it must go forward even should France refuse to participate in the reform.

* * * * *

I am, &c.,

R. BEARDSLEY.

No. 650.

Mr. Beardsley to Mr. Fish.

No. 284.]

AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, March 5, 1875. (Received April 7.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 168, of the 2d ultimo, in relation to judicial reform in Egypt. You

state that it is probable that the Government of the United States will accept the offer of the Khedive to nominate two magistrates for the lower courts, pursuant to the conditions of the Franco Egyptian convention; but owing to the special qualifications referred to in my dispatch No. 248, of the 15th of December, these nominations may not be as prompt as I intimated would be desirable. You further remark that it is important that you should be more fully informed as to the respective functions of the two magistrates.

I have the honor to respond as follows: There are to be three courts or tribunals of first instance, one at Alexandria, one at Cairo, and one at Zagazig. Each tribunal will consist of seven judges, four foreigners and three natives. By the original regulations the foreign judges could be chosen from whatever nationalities the Khedive saw fit; by the Franco-Egyptian protocol each of the great powers is entitled by right to at least one judge in each of the lower courts, in addition to one judge in the court of appeal. The judge to be nominated by the United States will have a seat in one of the lower courts, either at Alexandria, Cairo, or Zagazig. His contract will be for five years, and his salary 30,000 francs a year, with an allowance equal to three months' salary for expense of the journey from the United States. In case of illness rendering him unfit for service, one year's salary will be paid to him and he will be honorably discharged. On the expiration of his term of service the same amount will be paid to him in lieu of a pension.

In connection with the new tribunals there will be an attorney-general to guard the legal interests of the Egyptian government. The attorney-general will be appointed by the Khedive, and will have a seat in all the tribunals. Subordinate to the attorney-general there will be twelve magistrates, ("substitutes,") four in each tribunal, who will act as occasion may require, by and with the advice of the attorney-general, either in his presence or absence. Two of the magistrates or substitutes of the four in each court will be foreigners and two natives. The attorney-general with the twelve substitutes will constitute the "parquet."

By the original regulations all the members of the parquet were to be appointed by the Khedive, at his will. By the Franco-Egyptian protocol one member of the parquet must be chosen from each of the great powers. One of the magistrates to be nominated by the United States will have a seat in the parquet, either at Alexandria, Cairo, or Zagazig. His salary will be 25,000 francs, with the same conditions as mentioned above for the judge of the lower tribunal, except that his term of service will be at the pleasure of the Khedive; that is to say, he may be discharged at any time by the Egyptian government on payment to him of one year's salary in advance. Thus two magistrates are to be nominated by the United States, one for the lower tribunals, with a salary of 30,000 francs a year, and one for the parquet, with a salary of 25,000 francs a year.

It is desirable that the names of the candidates, with their ages and former legal service, may be communicated for the approval of the Egyptian government as soon as practicable; and I am desired to say, what I said in a former dispatch, that the magistrates must possess a perfect knowledge of the French or Italian languages, otherwise they will not be accepted. It will be well to insist upon this qualification to prevent the embarrassment which might arise in the event of a judge coming out with an imperfect knowledge of both French and Italian.

Hoping I have made the respective functions of the two magistrates clear,

I have, &c.,

R. BEARDSLEY.

No. 651.

Mr. Beardasley to Mr. Fish.

No. 292.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, March 24, 1875. (Received April 21.)

SIR: I have the honor to enclose herewith a translation of a dispatch received from Cherif Pasha, minister of justice, in relation to the revision of the new codes, and transmitting the revised "Code Civil," which has just come from the press. I transmit to you by this mail two copies of the revised "Code Civil," with the changes and modifications indicated.

I inclose herewith, for your convenience, in addition to the dispatch from Cherif Pasha, two translations of the convention between the Egyptian government and the consul-general of France.

I am, &c.,

R. BEARDSLEY.

[Inclosure 1 in No. 292.—Translation.]

Chérif Pasha to Mr. Beardasley.

MINISTRY OF JUSTICE,
Cairo, March 18, 1875.

SIR: By my dispatch of the 19th November, 1874, I had the honor to communicate to you that the French government had called our attention to the obscurity and certain contradictions which had slipped into the project of our new codes, &c. I added that a commission composed of councilors of the appeal court of Alexandria would be charged to examine the importance of the modifications which had been proposed by the French government, with the view of correcting, if necessary, the contradictions and the obscure points called to our attention.

This revision, as is well known to you, had also for one of its objects the insertion of a clause in article 4 of the convention of the 10th November, 1874, between the government of the Khedive and the French government.

The government of the Khedive having received from the French government the note in which reference is made to the above-mentioned article 4, I hastened to communicate the same to the gentlemen of the appeal court at Alexandria, united in commission for this purpose, and I begged them to examine the questions suggested.

The commission has acquitted itself of this task with the intelligence which was to be expected from such eminent juris-consults, and it has suggested several modifications which, without affecting in any manner the principles which form the basis of our new legislation, will be useful in clearing up several points in detail and cause some contradictions existing between the codes and the regulations of organization to disappear.

The government of the Khedive could but approve of the propositions made by persons so competent in the matter; and as the proposed modifications relate especially to the revision of some articles of the civil code, I have ordered the reprinting of this code, and beg to transmit you herewith a copy of the new edition.

I beg to add that the commission has suggested for the code of civil process the omission of the words "du requérant," existing in article 3 by typographical mistake, and the suppression of article 34.

I am, &c.,

CHÉRIF.

[Inclosure 2 in No. 292.—Translation.]

THE FRANCO-EGYPTIAN PROTOCOL.

On the twenty-fifth day of September, one thousand eight hundred and seventy-four, his excellency Chérif Pasha, minister of justice to His Highness the Khedive,

and Monsieur le Marquis de Cazaux, agent and consul-general of France, acting by order and pursuant to instructions from their respective governments, having held a last conference for the purpose of coming to a final understanding respecting the conditions on which the French government would adhere to the judicial reform in Egypt, have agreed as follows :

First. Indictments for fraudulent bankruptcy, alluded to in article 8, paragraph G, title the second of the original regulations, shall continue, as in the past, to be within the competency of the jurisdiction of the accused.

Second. With regard to the choice of one of the judges of the courts of first instance, the Egyptian government shall apply to the ministry of justice in France in the form provided for the nomination of judges for the appeal court, and the magistrate thus designated shall be in preference appointed to sit in the Cairo tribunal.

Third. One of the members of the public ministry (attorney-general's office or parquet) shall be chosen from among the French magistracy; and it is expressly understood that in the event of a second chamber being created within one of the Cairo-Zagazig tribunals, another member of the public ministry shall also be chosen from among the French magistrates.

Fourth. With reference to the revisions of the codes, the agent and consul-general of France shall address to his excellency Chérif Pacha, within fifteen days from the notification by the French cabinet of its approval to the Egyptian government, a statement as to the particular points requiring elucidation in the wording and system of the new laws, and suggesting such alterations as may be thought necessary to remove any contradictions therein contained.

Fifth. The reservation respecting the "statut personnel" omitted in article 9 of the organic regulations, shall be re-inserted in the text of the said regulations.

Sixth. With reference to the constitution of the chambers, the French government having desired that one of the magistrates called to try European cases be, as far as possible, of the same nationality to which the party in the suit belongs, the Egyptian government engages itself to call the attention of the new magistracy to this point, who alone is intrusted with the organization of its own service.

The same answer was given to the Austro-Hungarian government, who had expressed an identical desire.

Seventh. The immunities, privileges, prerogatives, and exemptions actually enjoyed by foreign consuls, as well as by their subordinate officers, by virtue of diplomatic usage and of treaties in force, shall be maintained in their integrity. Therefore agents and consuls-general, consuls, vice-consuls, their families and persons attached to their service, shall not be amenable to the new tribunal, and the new laws shall not be applied either to their persons or to their dwelling-houses. The same reservation is stipulated with respect to Catholic establishments, whether religious or educational, placed under French protection.

Eighth. It is well understood that the new laws and new judicial organization shall have no retrospective effect, according to the principle laid down in the Egyptian civil code.

Ninth. Claims now pending against * the Egyptian government shall be submitted to a commission consisting of three magistrates from the appeal court, chosen by mutual consent by the two governments. The said commission will decide finally, and without appeal, and will itself prescribe the form of procedure to be observed.

Tenth. However, the said claims, if the interested parties so prefer, may be brought before a special chamber of first degree (instance) and another special chamber of appeal, consisting of magistrates belonging to the tribunal and to the appeal court, respectively, and constituted according to the provisions already agreed upon between the Egyptian government and the Austro-Hungarian government and several other powers. The above two chambers, although proceeding in conformity to the rules of procedure for the new tribunals, shall, nevertheless, try the merits of the case in conformity to the laws and customs in force at the time of the occurrence of the facts which gave origin to the claim.

Eleventh. Cases in which claimants of several nationalities are concerned shall be tried in conformity to either of the two above modes, as may be agreed upon by their respective consuls-general.

Twelfth. The settlement of the above-indicated cases shall commence at once on the establishment of the new tribunals, and shall continue so long as the said tribunals remain in operation.

The stipulations contained in the present "procés verbal" shall be submitted, without any delay, to the two governments respectively for ratification.

CHÉRIF.
CAZEAUX.

* In the original, "entre," which means "between," cannot stand here.—R. B.

No. 652.

Mr. Beardsley to Mr. Fish.

No. 293.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, March 24, 1875. (Received April 21.)

SIR: I have the honor to inclose herewith a translation of an official dispatch from the governor-general of the Soudan, relating the particulars of the final conquest of Darfour, and the submission to the Egyptian authority of the entire family and relatives of the late Sultan, who was killed in battle last year. Hassab-Allah, the uncle and successor to the late Sultan retired with his family and retainers to the mountains west of Darfour after the disastrous engagements which so effectually destroyed the Darfourian forces, and prepared to resist the Egyptian authorities to the last. The wise and conciliating measures, however, adopted by the Khedive's government toward the inhabitants of the country soon induced one of the most powerful members of the late Sultan's family, the Emir Abd-el-Raman Chattout, to offer his submission and ask permission to return to his residence at Facher, the capital. He was not only permitted to return, but he was treated with every mark of distinction due to his princely rank, and permitted to resume complete control of all his possessions.

This generous treatment of Abd-el-Raman had the desired effect upon Hassab-Allah, who, in obedience to an invitation from the governor-general, soon came down from the mountains and gave in his submission, with that of all his family. Immediately after this event, Mohamed Fadhil, son of the late Sultan, and the last of the powerful chiefs of Darfour to hold out, submitted to the Egyptian authority. The governor appears to speak but the truth when he says with satisfaction: "Such is the result of the expedition to Darfour, the complete submission of the family of the late Sultan and all the population of the country."

But little is as yet known in regard to Darfour, except that it is a large and important province, with nearly five millions of inhabitants, and possessing within itself many resources of wealth and prosperity. The eastern portion is said to be sandy, but susceptible of cultivation, while the western part is extremely fertile and rich in minerals.

The two exploring parties which left Cairo for Darfour in December, as reported in my dispatches numbered 262 and 268, will soon be in the field and at work. They will open new routes, repair old ones, trace the course of the principal streams, and collect data for a reliable map of the new territory, and at the same time, by careful researches, ascertain the importance of its mineral resources, and by systematic observations define its meteorological phenomena.

The governor recommends the division of the country into departments and districts, and submits to His Highness the Khedive a practical plan of government, which, it is believed, will be adopted and carried out.

Materials for the construction of the telegraph are being rapidly forwarded to Darfour, and it is believed that within a few months telegraphic communication will be established between Khartoum and Facher.

In the mean time the Egyptian policy is to conciliate and pacify the country, and, at the same time, remove from it all disturbing elements. The Khedive has invited Hassab Allah (and his family) to take up his residence at Cairo, and the invitation has of course been accepted. The

ex-Sultan will be provided with a palace and paid a pension sufficiently liberal to permit him to live as befits a prince of his rank. His Highness has already reached Khartoum on his way to Cairo. He is accompanied by his four sons and ninety-two persons composing his suite, of whom thirty-two are men and sixty are women.

An Egyptian steamer has been dispatched to Souakin, on the Red Sea, for the purpose of receiving the prince and his family and bringing them to Suez, from whence they will come by rail to Cairo. He will be received here with all the honors due to his rank.

I am, &c.,

R. BEARDSLEY.

[Inclosure 1 in No. 293.—Translation.]

Dispatch from the Governor-General of Soudan.

By the dispatch I had the honor to receive lately your excellency was kind enough to inform me that His Highness, giving us already so many proofs of his benevolence, has been graciously pleased to confer upon me the degree of a division general, with the order of the Medjidié, I class, and on Zubar Pasha the degree of a brigade general and the Medjidié, III class.

Your excellency was kind enough to inform me at the same time that His Highness the Viceroy ordered me to compliment the troops on his behalf, and to express his satisfaction to the whole army.

I consequently united all the officers and soldiers which were present in Facher, the center of the actual government, and intimated to them the contents of the dispatch as well as the compliments and satisfaction of His Highness.

The joy was great and general, and was manifested in the most sincere manner. Between the thanksgivings and prayers to the Almighty for the preservation of the days of His Highness, salvos of artillery were fired, &c., &c.

I then immediately wrote to Zubar Pasha, who is at present in the hills of Morah, to communicate these happy tidings, and the joy there was also great and general.

The health of the soldiers is excellent, and they are full of gratitude toward the Khedive. In regard to their welfare, for which they have to thank His Highness and his generous orders, they have continued to prosper in these distant mountains where nobody has been before them. The whole population of Darfour (I may say all the villages, all the districts, and all the dependencies of the territory) is in a perfect state of quietude and continue their agricultural and commercial pursuits, encouraged as they are by the proceedings full of humanity and justice which are being carried out in accordance with higher instructions.

The Emir, Abdul-Rahman Chattoult, one of the brothers of the late Sultan of Darfour, somewhat older than the latter, who had received intimation of this state of things, called upon us to ask for protection and for permission for himself, his mother, and his family to remain in their residence in Facher under protection of the government of His Highness the Viceroy, with the same rights as his other subjects.

This request was granted, and I gave him full liberty to proceed as in the past, and to dispose without any reserve whatever of all his properties and private agricultural settlements; besides I thought it my duty to offer him a state robe, embroidered with gold, and a sword of silver, as well as a horse, with a saddle of gilded silver.

He manifested great pleasure, and was in haste to write to his brothers and relations, and at the same time to the family of the late Sultan, to tell them what had happened to him, and to beg them to come and join him.

In accordance with the instructions which had been delivered to me previously, I wrote to Hassab-Allah, the uncle of the late Sultan, who, after having retired with his staff, had barricaded himself in the hills of Morah, in the east of Darfour. I requested him to give in his submission, promising him full security for his person as well as for his private properties, and I asked him to return with the family of the Sultan and the chiefs that remained with him, that they might be re-installed in their estates and occupy themselves with their own affairs. I further showed him my intention to attach to the service the most meritorious men and to employ them according to their abilities.

My letter was sent to him through Zubar Pasha, accompanied by a detachment, who had orders to use force in case of resistance on his part. Having received this letter, and being already informed of our friendly proceedings toward the Emir Abdul-Rash-

man, Hassab-Allah submitted to the instruction of the government, informing me by letter of his submission. Then he came down from the hills, with his companions, to meet Zuba Pasha, in a state of perfect submission and obedience, without a shot having been fired. I received a letter which confirmed these facts, and announcing at the same time the submission of the Emir Mahomed Fadhl, son of the late Sultan. Such is the result of the expedition to Darfour, "complete submission of the family of the late Sultan and of all the population of the country," and there only remains now the establishment of administrative principles in this country.

The territory of Darfour being very vast, I should suggest, for the simple reason of its importance, its division into four departments, the north, south, east, and west. These departments ought to be under the jurisdiction of a governor-general, whose residence would be Facher, the old capital of Darfour, it being the center.

Each of them being equal to one of the departments of the Soudan, should be ruled by a governor, chosen among the higher officers, and to whom should be attached—

(1.) Ten officers in the quality of chiefs of district officers, prefects of the police, &c.

(2.) Ten clerks able to fill their positions, two surgeons, two dispensaries, two engineers, one *cadi*, as well as the necessary clerks.

Each government should have, at the same time, a sufficient force of regular troops and militia. With reference to the town of Facher, it ought to have as well a sufficient military force of regular and irregular troops, and a *divan* with a sufficient staff of clerks and employés.

A sanitary inspection and a sanitary board, with the medicines and dispensaries required, and everything else that is thought fit for the use of the general government.

The administrative rule once organized on this basis, there must be provided, in compliance with the orders of his highness the Khedive, for the transport of the necessary materials for the construction of telegraphic lines, destined to run through every locality, to facilitate a rapid exchange of communications between the sub-governments, the general government, and the Soudan.

No. 653.

Mr. Beardsley to Mr. Fish.

No. 308.]

AGENCY AND CONSULATE-GENERAL
OF THE UNITED STATES IN EGYPT,
Cairo, May 5, 1875. (Received May 27.)

SIR: The Italian Parliament has at last taken final action in regard to the project of judicial reform in Egypt. On the 30th ultimo a vote was reached, and the project approved by the great majority of 217 to 13.

No reasonable doubt has existed as to the final and favorable action of the Italian Parliament. But little opposition to the project has been manifested in that body, and the government has long been pledged to it. It is, nevertheless, very gratifying to the Egyptian government to have the project so emphatically indorsed by Italy at this moment, when France still hesitates to sanction it by a favorable vote in her Assembly.

The French government has been pledged to the reform in principle since 1867, when the Khedive first proposed to the foreign powers a new judicial system for foreigners in Egypt. Since 1870 it has taken an active part in all the deliberations and discussions on the subject, and its representative was one of the principal parties to the *réglement* adopted by the mixed commission which met at Constantinople in 1872-'73. That commission terminated its labors on the 23d of February, 1873, and on the 2d of March the *réglement* was communicated to the foreign powers. The French government objected to certain features of the *réglement*, and fresh negotiations were commenced between the French and Egyptian governments. These negotiations continued during the years 1873 and 1874. Finally, in the month of September of the latter year, a convention was signed between the

representatives of France and Egypt, in which Egypt yielded to all the demands of France. A copy of the convention with a correspondence on the subject was transmitted to the Department with my dispatch No. 248, of December 15, 1874. It would seem that nothing more could be asked for or expected by France, and that she ought now to be amply satisfied. All her demands have been granted, and the new convention has been signed and approved by the cabinet at Versailles. The Assembly, nevertheless, hesitates, discusses, suggests, and fails to take final action, regardless of the fact that the project has been accepted by all the other powers, and that vast interests are being prejudiced, and a great reform withheld from a friendly people, through its delay and indifference.

It is hoped that the emphatic vote of the Italian Parliament may hasten the action of the French Assembly when it again meets.

I inclose herewith a list of the foreign judges and substitutes who have arrived in Egypt and are ready for duty.

It is believed that the new courts will be finally organized next month.

I am, &c.,

R. BEARDSLEY.

[Inclosure in No. 308.]

List of foreign judges and substitutes.

| COUNSELORS. | |
|------------------------|----------------|
| Name. | Nationality. |
| Scott | England. |
| Lapenna | Austria. |
| Comte De Marogna | Germany. |
| Barringer | United States. |
| Giaccone | Italy. |
| Coumany | Russia. |
| JUDGES. | |
| Bargehr | Austria. |
| Janssen | Belgium. |
| Haakman | Netherlands. |
| Moriondo | Italy. |
| Mourousi | Russia. |
| Baron D'Amfelt | Sweden. |
| De Vos | Belgium. |
| De Stoppelaar | Netherlands. |
| De Brouner | Belgium. |
| Van Bemmelen | Netherlands. |
| Sacopolon | Greece. |
| Hagens | Germany. |
| SUBSTITUTES. | |
| Korizmies | Austria. |
| De Wilmowsky | Germany. |

No. 654.

Mr. Beardsley to Mr. Fish.

No. 317.]

AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,

Cairo, May 20, 1875. (Received June 11.)

SIR: I have the honor to inclose herewith a translation of a dispatch from Cherif Pasha, minister of justice, communicating the important

information that the court of appeal will be organized at Alexandria on the 28th of next month, (June,) and the courts of first instance on the 18th of next October. The court of appeal will prepare the general rules of procedure for the tribunals in order that the entire system may be in harmonious working condition so soon as the lower courts shall be organized.

I am, &c.,

R. BEARDSLEY.

[Inclosure 1 with No. 317.—Translation.]

Cherif Pasha to Mr. Beardsley.

MINISTRY OF JUSTICE,
Cairo, May 18, 1875.

Mr. AGENT AND CONSUL-GENERAL: You are aware that among the powers that adhered to the judiciary reform in Egypt, several have reserved their formal and definitive adhesion until the approval of their legislative chambers.

To-day, nearly all the powers having obtained this approval, and the corps of the magistrates being almost complete, the government of the Khedive, pressed by numerous and legitimate interests, sees itself obliged to put an end to a judiciary situation which holds so many questions in suspense, and which, through its continuance, causes a grave prejudice to public affairs.

In order that the new laws may be made obligatory, and that the new tribunals may function before the end of this year, it is important that the court of appeal, legally assembled, should, without any further delay, prepare the general judiciary regulations in accordance with the "*règlement d'organisation*" granted by the powers.

I have therefore the honor to inform you that the installation of the court of appeal will take place on the 28th of June next, and that of the tribunals of the first instance on the 18th of October following.

Requesting you, Mr. Agent and Consul-General, to bring this decision to the knowledge of your Government, I avail myself of this occasion to reiterate, in the name of the government of the Khedive, the expression of our thankfulness to the Government of the United States for the kind co-operation which it has given to the work of judiciary reform. We trust to the continuance of this co-operation, and hope that our united efforts will bring forth all the fruits which public interest has a right to expect.

Be pleased to accept, Mr. Agent and Consul-General, the assurance of my high consideration.

CHERIF PASHA.

No. 655.

Mr. Beardsley to Mr. Fish.

No. 319.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, May 26, 1875. (Received June 21.)

SIR: I have the honor to transmit, herewith inclosed, a translation of a dispatch from the minister of justice, informing me that the lower courts of the new judicial tribunals will be organized at Alexandria on the 28th of June next, at the same time of the organization of the court of appeals, instead of on the 18th of October, as announced in the minister's dispatch of the 18th instant, a translation of which I had the honor to transmit with my dispatch 317 of the 20th instant.

The present understanding is, therefore, that all the tribunals will be officially organized on the 28th of next month, and that a vacancy will then occur until the 18th of next October. On that day all the courts

will commence their functions, and the new code of laws become applicable to all parts of Egypt.

In the mean time, it is hoped the French Assembly will accept the reform, and a French magistrate be appointed to the court of appeals.

I am, &c.,

R. BEARDSLEY.

[Inclosure in No. 319.—Translation.]

Cherif Pasha to Mr. Beardsley.

MINISTRY OF JUSTICE,
Cairo, May 22, 1875.

MR. AGENT AND CONSUL-GENERAL: Referring to my circular-dispatch of the 18th instant, I have the honor to inform you that the government of the Khedive, following the measures already taken, has decided that the installation of the court of appeals and that of the tribunal of first instance will take place at Alexandria on the 28th of June next, and that their functioning, in conformity with the 38th article of the judiciary organization, will begin with the 18th day of October following. It will, therefore, be beginning with October 18, 1875, that the laws which compose the new Egyptian code and which the government will promulgate within the time and in the manner prescribed by the 35th Article of said regulations, will become binding through the whole territory of the country.

Be pleased to accept, Mr. Agent and Consul-General, the assurances of my high consideration.

CHERIF.

No. 656.

Mr. Beardsley to Mr. Fish.

No. 325.]

AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, June 24, 1875. (Received July 19.)

SIR: I have the honor to inform you that His Highness, the Khedive, went to Alexandria yesterday with his household.

The different divans of the government were officially established at Alexandria several weeks ago, but the ministers have, of necessity, been at Cairo the greater part of the time since. The Khedive and all the divans will probably now remain at Alexandria, until about the middle of September, the period at which they generally return to the capital.

The general opinion now is that His Highness will not go to Europe this summer. His movements will, most likely, depend upon the state of his health, and the rise of the Nile. To his presence in Egypt last summer, and to his great energy and vigilance, the country owes its salvation from the greatest disaster which has threatened it of late years—an inundation from the highest Nile within half a century.

I am, &c.,

R. BEARDSLEY.

No. 657.

Mr. Beardsley to Mr. Fish.

No. 326.]

AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, June 24, 1875. (Received July 19.)

SIR: I have the honor to inform you that Riaz Pasha, late minister of foreign affairs, sailed for Europe on the 30th ultimo, on leave of absence, Cherif Pasha assuming charge, *ad interim*, of his portfolio.

On the 10th instant, Nubar Pasha was named minister of foreign affairs in place of Riaz Pasha, and was, at the same time, granted a short leave of absence to visit Europe, Cherif Pasha continuing in charge of the department of foreign affairs.

Riaz Pasha has been appointed minister of agriculture, a new department just created.

Cherif Pasha is now minister of justice, minister of commerce, and minister *ad interim* of foreign affairs.

Nubar Pasha will return to Egypt the latter part of July and at once assume charge of his department.

I am, &c.,

R. BEARDSLEY.

No. 658.

Mr. Beardsley to Mr. Fish.

No. 333.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Alexandria, July 6, 1875. (Received August 4.)

SIR: I have the honor to inform you that the Hon. George S. Batcheller, who has been designated by the Government of the United States for the post of judge in the courts of first instance in the new Egyptian tribunals, arrived at Alexandria on the 30th ultimo. On the 1st instant I presented Mr. Batcheller to his excellency Cherif Pasha, minister of justice, and on the 3d instant I had the honor of presenting him in special audience to His Highness the Khedive. On the 5th instant Mr. Batcheller received from the minister of justice an official notice of his appointment as judge in the new tribunals and the necessary data in regard to his salary and allowances.

The appointment of Mr. Batcheller gives the greatest satisfaction to the Egyptian government, and I am desired by His Highness the Khedive to express to the Government of the United States the earnest thanks of the Egyptian government for designating for the office in question a gentleman so eminent in the social, political, and judicial world.

Mr. Batcheller's knowledge of the French language is all that could be desired, and I doubt not that he will at once assume a position at the very head of the foreign magistrates in the new tribunals, a position advantageous to the Egyptian government and honorable to the United States.

I am, &c.,

R. BEARDSLEY.

No. 659.

Mr. Beardsley to Mr. Fish.

No. 334.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, July 10, 1875. (Received August 9.)

SIR: I have the honor to inform you that the court of appeal and the courts of first instance, of the new judicial tribunals in Egypt, were officially organized at Alexandria on Monday June 28, 1875.

The judges of all the tribunals and the chief officials of the military and civil service assembled at the palace of Ras-el-Tin, at 9 o'clock in the morning, where they were received by Prince Tawfik Pasha, minister of the interior, and Cherif Pasha, minister of justice. A few minutes later they assembled in the audience-chamber of the palace. The minister of justice took his place at the upper end of the chamber, with the magistrates on his right extending in line down the entire east side of the room. At the left of the minister of justice stood Prince Tawfik Pasha, with the chief military and civil officials of the government, in full uniform, extending in line down the west side of the room.

The Khedive made his appearance without delay, and walking up the center of the room, to the ministers of justice and of the interior, addressed the body of magistrates as follows:

GENTLEMEN: The powerful support of His Majesty the Sultan, and the generous assistance of the powers, permits me to inaugurate the judicial reform and to install the new tribunals.

I am happy to see gathered around me the eminent and honorable magistrates to whom I confide, in perfect confidence, the task of administering justice. Every interest will find in your care complete security, and your decisions will thus obtain, on the part of all, respect and obedience. This date, gentlemen, will be marked in the history of Egypt, and it will be the point of departure of a new era of civilization. With the aid of God, I am persuaded that the future of our great work is assured.

At the termination of this address the Khedive retired to another room of the palace, where, in a short time, the body of magistrates, with Cherif Pasha at their head, presented themselves for the purpose, of presenting to His Highness their respects and felicitation. Cherif Pasha, on behalf of the magistrates, addressed the Khedive as follows:

HIGHNESS: Permit me, in my quality as minister of justice, to be the organ of the corps of magistrates and to present to Your Highness, on this solemn occasion, my most sincere felicitations. To-day, by the installation of the tribunals, a great work of progress is accomplished.

I pray the Khedive to be pleased to accept the gratitude of the magistrates for the confidence which he places in their devotion to the great interests of this country, as well as to its future. In investing them with the authority of administering justice in his name, the Khedive intrusts to the wisdom, to the loyalty, and to the honor of the magistrate, one of the most important attributes of power. Gratified by this noble and generous confidence, and inspired by the civilized ideas of the Khedive, the new Egyptian magistrate will accomplish courageously his high mission, and will lend his effective assistance to your persevering efforts. His ambition will be, I am sure, to attain the honor of engraving his name in the heart of future generations, as having contributed to the foundation of a great work, which henceforth will be inseparably connected with the happiness of Egypt, and which will constitute one of the glories of your reign.

At the close of this address the magistrates retired, and the Khedive received, in a body, the chief officials of the army, navy, and civil service, who presented their felicitations in a few appropriate words and withdrew. The consuls-general were next received individually. The Khedive received me most cordially, and at once, and while still standing, addressed me in French. His remarks, translated, were to the following effect

I thank you, sir, for your kindness in coming to congratulate me on this auspicious occasion, and I beg you will do me the special favor of transmitting to the Government of the United States my sincere and earnest thanks for the valuable assistance it has, from the beginning, lent to the project of judicial reform in Egypt, and for the frank and loyal manner in which it has accepted the reform. You will also do me the favor of expressing to the Government of the United States my hope that it will continue to extend to the reform its powerful support and sympathy, and thus assure the complete success of the great work. I am confident that to-day will mark the commencement of a new era of progress and prosperity for Egypt, in which, I hope, the Government of the United States will always take a friendly interest. Will you be pleased, also, to transmit to your Government my thanks for having designated such honorable and eminent magistrates to assist in the work which has been inaugurated to-day?

I responded to the Khedive as follows:

I congratulate Your Highness in the name of the Government of the United States, on the organization of the new tribunals for the administration of justice in Egypt, and I earnestly hope that all Your Highness's anticipations in regard to the great good to flow from them may be realized. The Government of the United States, as well as its people, are deeply interested in the reform so auspiciously inaugurated to-day, and will watch with solicitude its operation and development. I will be most happy to transmit to my Government the sentiments which Your Highness has been pleased to express to me.

After a short conversation of a general nature, I took leave of His Highness.

After the reception of the consuls-general, a large body of the citizens of Alexandria and Cairo were presented and offered their congratulations, after which the ceremonies of the day closed.

I am, &c.,

R. BEARDSLEY.

No. 660.

Mr. Beardsley to Mr. Fish.

No. 335.] AGENCY OF THE CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, July 15, 1875. (Received August 17.)

SIR: In my report (dispatch No. 334) of the organization of the new judicial tribunals at Alexandria on the 28th of June, I failed to mention that the representatives of France took no part in the ceremony, the project of judicial reform having not received as yet the official sanction of the French Assembly.

In my dispatch No. 308, of May 5th, I informed you of the acceptance of the reform by the Italian Parliament, and I gave expression to the hope which was then entertained by the Egyptian government as well as by all true friends of the reform, that the action of Italy might stimulate that of France, and bring about an early acceptance of the reform. Such, however, has not been the case. The committee to whom the question was referred by the Assembly is hostile to the project, and seems determined to prevent its reaching a vote in the Assembly. It is believed the majority in the Assembly is largely in favor of the reform, but the great danger now to be apprehended is the dissolution of the present chamber before any action can be taken.

The discussion of the subject in the committee and by its adversaries, shows a disposition to misrepresent the true judicial situation in Egypt. For example, the committee referred the matter to the court of Aix for its advice and opinion. Now Aix is the court of appeal for all French courts in Egypt, and it has a direct and vital interest in the full maintenance of the present jurisdiction of the French courts in Egypt. The court of Aix pronounced emphatically against the reform, stating that in case the National Assembly rejected it, the condition of Frenchmen in Egypt would practically remain unchanged. In the case of a Frenchman being the defendant, said the court of Aix, the plaintiff must prosecute before the French consul; if he be the plaintiff in a case against a foreigner of another nationality, he would still prosecute before the consul of the defendant; and, if the defendant was a native, he would bring his case before the new mixed tribunals. Now the powers which

have given their adherence to the Reform—and they have all given their adherence but France—have consented to accept for their citizens in Egypt, in all mixed cases, the jurisdiction of the new tribunals, and none other; therefore, a French plaintiff, whether the defendant be a native or a foreigner of a different nationality, will have no other means of obtaining redress than prosecuting before the new tribunals, in which France will have no judicial representative.

Many objections to the reform are urged in the committee, but none of them, so far as I have seen, of a meritorious nature. The chief idea of its adversaries seems so be, not that French interests will be injured, but that French prestige will be dimmed.

The French agent and consul-general is now in France on leave of absence, and his place is filled by M. Pelissier, French consul at Cairo. M. Pelissier, of course, did not participate in the ceremonies on the 28th of June. A few days later, he paid an official visit to the Khedive and protested against the organization of the courts before the final action of France had been taken, basing his protest on the ground that the official sanction of Italy having been waited for, like considerations should have been manifested toward the government of France.

The delay in organizing the courts for judicial labor until October 18th is for the purpose of permitting France to take final action in the matter before the courts commence their functions.

Owing to a long and serious illness, from which he was just recovering, Mr. Barringer, of the court of appeals, was not able to be present at the ceremony. He sailed for Europe on the 5th of this month, where it is hoped he will speedily recover.

The judicial dress adopted for the judges is very simple. It consists of a plain suit of black cloth, the coat single-breasted, buttoning up to the neck, with a narrow standing collar. Over the shoulder and around the body is worn a broad scarf, to which is attached a large and very handsome badge of office. The badge consists of a shield resting upon a drapery, bearing various appropriate devices, from beneath which radiate the rays of a many-pointed star. On the shield is engraved in Arabic "Law is the foundation of justice." The red fez cap, the national head-dress, is worn on the head. The scarf worn by the judges of appeal is green and the badge of pure gold; of first instance, the scarf is red and the badge of gold and silver combined; and of the bar or parquet the scarf is red and white, and the badge of silver.

I am, &c.,

R. BEARDSLEY.

No. 661.

Mr. Beardsley to Mr. Fish.

No. 336.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, July 15, 1875. (Received August 17.)

SIR: I have the honor to inform you that by a decree of the Khedive, dated July 5, 1875, the Gregorian calendar will be adopted by the Egyptian government on and after the 11th of next September, in place of the Coptic calendar which has heretofore been employed in all affairs appertaining to the internal administration of the country. In its communications with foreigners, the government has heretofore employed

the Gregorian calendar, while the people, in all their transactions of life, use the Mohammedan calendar. Much confusion in dates has necessarily existed, and great inconvenience; an almanac, showing the corresponding dates of the three calendars, being always necessary.

I inclose herewith a copy of a translation of the decree referred to.

I am, &c.,

R. BEARDSLEY.

[Inclosure in No. 323.—Translation.]

Decree of His Highness the Khedive, addressed to the minister of finances, on the 5th July 1875.

Considering that the ministerial relations with Europeans are, in nearly all cases, regulated to correspond with the Gregorian calendar, and that the accounts and budgets are generally regulated to correspond with the Coptic calendar, although there is no difference in the number of days composing the year, to prevent all confusion between the Gregorian dates and the others, we order that the government accounts be made to correspond with the Gregorian calendar after the 1st Thaut, 1592, corresponding to the 11th of September, 1875.

In regard to the balance of the present year, that is to say, from to-day until the day preceding the first Thaut of the year 1592, corresponding to the 10th day of September, 1875, the accounts will be kept in the same manner as they are kept now. The period from the 1st Thaut, 1592, until the 31st of December, 1875, which will complete the year 1875, will form a part of the year 1876; that is to say that the year 1876 will include that period. At the beginning of the year 1877, the equilibrium will be established, or in other words, the year will be counted in accordance with the Gregorian calendar.

In consequence, I now address my present order to your excellency in order that it may be uniformly executed in all the administrations, as is our desire.

ISMAIL.

No. 662.

Mr. Beardsley to Mr. Fish.

No. 337.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, July 17, 1875. (Received August 17.)

SIR: I have the honor to inform you that a special envoy from Constantinople arrived at Alexandria on the 5th instant, the bearer of a firman from His Majesty the Sultan to the Khedive, ceding to the latter the port of Zeilah, on the Red Sea.

Zeilah is the last foothold of Turkey in Africa, and its possession by Egypt is consequently of some political as well as commercial importance, as the entire African coast of the Red Sea is now under Egyptian jurisdiction. It is situated in the Gulf of Aden, in latitude $11\frac{1}{2}^{\circ}$ north, and on that part of the coast called Adel, in the country of the Somaulis. The Somaulis are the descendents of a mixed race of Arabs and Negroes. They are divided into many tribes. Those of the interior are nomads and pastoral, while those along the coast have fixed places of residence and are given to commercial pursuits. The name of Adel is often given to the entire coast of Africa from Abyssinia to the Cape of Guardafin; but the country of Adel, properly speaking, is only a mountainous region bordering Abyssinia.

Zeilah is nearly opposite Aden and is a port of some importance, being the only port on that part of the coast. It has some trade with the

Arabian ports, and is an outlet for an extensive region in the interior. The town is built on a low, sandy point, called Ras Hamar, and consists of a mosque, twelve or fifteen stone houses, and several hundred huts, the whole inclosed within a mud wall, which is in a ruinous state. The population is said to be about five thousand souls. Its chief importance lies in the fact of its being considered the port of Hamar, a large walled city, the capital of the province of that name, which is distant eight days' journey by camel to the southwest.

Large vessels, however, cannot approach within a mile of the town, as the anchorage is shallow. The principal articles of export are ivory, myrrh, ostrich feathers, and gum arabic.

The firman transferring the sovereignty of Zeilah from the Sultan to the Khedive was officially read at the palace of Ras-el-Tin, at Alexandria, on the 7th instant, in presence of the Khedive, his ministers and the high functionaries of the government.

The envoy, Khalil Pasha, the bearer of the firman, is believed to have conveyed to the Khedive a pressing invitation from the Sultan to visit Constantinople. His Highness's solicitude in regard to the rise of the Nile—which is now rising rapidly—will probably prevent his acceptance of the Sultan's invitation this summer. He returned to Cairo on the 10th instant, where he now is.

The additional tribute paid for the acquisition of Zeilah is £15,000.

I am, &c.,

R. BEARDSLEY.

No. 663.

Mr. Beardsley to Mr. Fish.

No. 355.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, September 1, 1875. (Received September 27.)

SIR: I have the honor to inform you that the Egyptian government has decided to adopt the metrical system of weights and measures in place of the Egyptian. This change will take place on the 1st of next January, and it will be a great benefit to commerce. I inclose herewith translations of two notes on this subject, one signed by Cherif Pasha and the other by the Khedive.

I am, &c.,

R. BEARDSLEY.

[Inclosure 1 in No. 355.—Translation.]

Cherif Pasha to the Khedive.

ALEXANDRIA, July 20, 1875.

MY LORD: According to the order of your Highness, and in conforming myself to your noble and generous ideas in regard to all that concerns the development and progress of this country, I have the honor to submit to your Highness the work elaborated in this ministry of commerce, in relation to the new system of weights and measures to be introduced into Egypt.

The system which seems to be the most proper to be adopted is the metrical system. It is the only convenient system for the reason that it is used by the greatest number of European states having commercial and industrial relations with Egypt.

With its adoption there will be a great uniformity in the transaction of business. It will mark, by the facilities which must necessarily result from its use in commercial affairs, an increased action in our relations with Europe.

It will remedy in an efficacious manner present embarrassments, and radically suppress innumerable difficulties which result from the multiplicity of weights and measures, and which, until now, have been one of the most serious obstacles to the extension of affairs.

The Khedive, in decreeing a measure of this importance, and in ordering, as your Highness has so happily and practically done, that the administrations of state and of your Daira shall put it in application in the beginning of next year, will realize a new work of progress. It is evident that in all the branches of industry and commerce the traders who are in business relation with the various administrations will see themselves obliged to make use of the new system, which in this manner becoming familiar to the public mind will facilitate its general application throughout all the country without shock or great difficulties.

In presenting to your Highness the inclosed report and the annexed documents, I believe that I have obtained the object which your Highness did me the honor to indicate to me.

I have the honor to be, Highness, &c.,

CHERIF.

[Inclosure 2 in No. 355.—Translation.]

The Khedive to Cherif Pasha.

ALEXANDRIA, PALACE RAS-EL-TIN,
August 1, 1875.

MY DEAR MINISTER: I have read with much interest the report which you have addressed to me relative to the utility of adopting in Egypt the metrical system, which is used to-day in nearly all of the European states in all commercial and industrial transactions.

I am convinced, with you, that the introduction of this system will mark an ascension movement in our relations with Europe. It will also remedy difficulties and contestations which result from the present system and which are obstacles to the extension of commercial relations.

The introduction of this system into Egypt must be effected in such a manner that its application shall not be accompanied by any violent shock or difficulty. To this end, as you suggest, the administrations of the state, and those of my Daira will adopt it on the 1st of January next. In this way the merchants in all the branches of commerce and of industry, who are in business relations with these administrations, will be obliged to make use of the new system, which in this manner will gradually become familiar to the public.

I have consequently given orders to the ministers of the interior, of war, and of finances, and to my Daira, to apply the metrical system from the 1st January, 1876.

I have to request you to arrange with these administrations in regard to the quality of material necessary for this object, and I authorize you to order it.

Accept, my dear minister, my sentiments of sincere friendship.

Your affectionate,

ISMAEL.

No. 664.

Mr. Beardsley to Mr. Fish.

No. 356.] AGENCY AND CONSULATE-GENERAL OF THE
UNITED STATES IN EGYPT,
Cairo, August 31, 1875. (Received September 27.)

SIR: I have the honor to inform you that the Sultan of Zanzibar, Seid Burrgeash Ben Said, arrived at Alexandria on the 4th instant, coming from Paris, via Marseilles, and on his way to Zanzibar. His Majesty was warmly received by the Khedive, and most hospitably entertained during his short sojourn at Alexandria. On the 9th, the Sultan came to Cairo, where he remained until the 24th, the guest of the

Khedive. On the 20th instant I had the pleasure of paying my respects to His Majesty, with whom I was very favorably impressed. He has a pleasing address, and is possessed of more vivacity of spirits than is usually found among orientals. He is bright and intelligent, and seems to have been deeply interested and impressed with all he saw in England and France. It appeared to me, from his remarks, that he felt humiliated at the thought of the insignificance of his own country as compared with the countries he had just visited; but he seemed ambitious to inaugurate measures which might benefit Zanzibar and render her of more importance in the eyes of the world. He informed me that he had just received a dispatch announcing the death, at Zanzibar, of the United States consul.

His Majesty left Cairo on the 24th instant, and embarked at Suez for Zanzibar on the same day. He will be conveyed to his destination by one of the Khedive's steamers, which has been placed entirely at the Sultan's service during his homeward voyage.

I am, &c.,

R. BEARDSLEY.

URUGUAY.

No. 665.

Mr. Caldwell to Mr. Fish.

No. 5.]

LEGATION OF THE UNITED STATES,
Montevideo, September 15, 1874. (Received October 22.)

SIR: I have the honor to inform you, that there appeared this morning a decree from the President of this republic nominating Col. Edward Vazquez as minister of war and marine in place of Lieut.-Col. Eugenio D. Fonda, resigned, and Dr. Pedro Bustamente as minister of the treasury, in place of Juan Peñalosa, resigned.

As far as I can learn, these changes, as to the attitude of parties and the policy of the government, have no significance whatever.

I have, &c.,

JOHN C. CALDWELL.

No. 666.

Mr. Caldwell to Mr. Fish.

No. 12.]

LEGATION OF THE UNITED STATES,
Montevideo, January 20, 1875. (Received February 25.)

SIR: I have the honor to inform you that since my last dispatch a revolution has occurred here which has resulted in an entire change of the executive of this government.

The recent government having been elected in constitutional form, as a result of compromise between the two parties, "whites" and "reds," which have from time immemorial divided this country, and having ruled with great moderation, it was hoped that the era of revolutions had passed, and that the country had entered upon a career of prosper-

ity, for which its situation and natural resources so admirably fit it. But it seems that the fires of party hatred, which, it was thought were extinguished, were only smouldering, ready to break out on the slightest excitement.

To understand recent events, it is necessary to recur to the attitude of parties at the time of the election of the recent President. Of the two parties, the whites and the reds, the latter were the stronger in the chambers, and would, if united, have elected their candidate. But there was a minority of the reds, composed of the wealthier and more intelligent of the party, who were unwilling to vote for the candidate of the majority of their party, (the present provisional governor,) and who put up as their candidate the late President, Dr. Ellauri, a lawyer of wealth and character and of very moderate views. The ultra reds, finding they could not elect their candidate, united with the moderate reds, and thus elected Dr. Ellauri against the candidate of the whites. Dr. Ellauri selected as his cabinet men from both political parties, and ignored the lower more radical and more dangerous men of his own party, the reds. The country, exhausted by constant revolutions, rallied enthusiastically to the support of the new government, and hoped that party feuds were buried, and that the era of peace and prosperity had come. It seems, however, that the ultra reds were merely waiting for a favorable opportunity to overthrow the government of their own creation.

The pretext was given by a bloody riot, which occurred on Sunday, January 10, on occasion of the election of alcalde in this city. While the voting was going on, on the steps of the church, in the public square, the lower reds commenced firing with revolvers upon the dense mass in the square, and the fighting continued until about sixteen were killed and some fifty wounded. The military were called out, and the riot was eventually quelled. The city was thrown into the most intense excitement, and the papers, the next morning, were filled with inflammatory articles denouncing, by name, those most prominent in the riot. Although these men were well known, being, many of them, notorious party leaders, the government made no arrests. The members of the cabinet urged the President to take prompt measures to bring the guilty parties to justice. The President refused to take any action; whereupon the cabinet resigned *en masse*. The ultra reds, who have a majority in the lower house, but are in a minority in the senate, sent a deputation to the President, promising to sustain him if he would select his advisers from their ranks. The President refused to do so, and nominated, last Thursday, two cabinet officers from the moderate men; thereupon, the ultras proceeded to make a revolution.

At 1 o'clock, on the morning of Friday, the 15th instant, all the troops of the capital, (four small battalions of infantry and one of artillery,) under their officers, who were all, save one, in the conspiracy, marched from their barracks to the principal public square, where they stationed troops and planted artillery. The officers in conjunction with the ultras, pronounced the deposition of President Ellauri, and named as provisional governor Don Pedro Varela. No resistance was made, whatever. No arrests were made, not a drop of blood shed, nor a gun fired. President Ellauri fled from his house, and took refuge in the consulate of Brazil, and the next day went on board a Brazilian iron-clad lying in the bay, where he has since remained.

The provisional government has removed but few officers, and has preserved, hitherto, the most perfect order. They have acted with great vigor, and have already changed the arms of the infantry for Remingtons. There is no organized military force in the country capable

of resisting them, and it is reported, semi-officially, that the principal chief of the opposite party—the whites—has given in his adhesion to the provisional government.

President Ellauri has not resigned, and has issued no proclamation, and, it is said, has refused to go into the interior and organize an opposition to the revolution. It is quite possible that the revolutionary party, comprising but a small part of the nation, may be suffered to retain power. It is quite certain that they have complete mastery of the capital.

* * * * *

Provisional Governor Varela has nominated as cabinet officers the following:

Minister of state, Don Isaac de Tezanos; minister of war and marine, Colonel Lorenzo Latorre; minister of treasury and foreign relations, Don José C. Bustamente.

I inclose a translation of an address of the Provisional Governor, Varela, in which it appears that the only charge made against President Ellauri is that he has failed to give offices to the ultra reds.

I have, &c.,

JOHN C. CALDWELL.

[Inclosure in No. 12—Translation.]

The provisional governor to the citizens and inhabitants of the republic.

The recent events of the 14th of January, which produced the fall of the government of Dr. José E. Ellauri and the will of the people and army of the capital have imposed upon me the duty of accepting the provisional government of the republic, to save the country from the evils of anarchy and civil war, which are the consequences of political overthrows produced by the blunders of bad governors who have been unwilling or unable to comprehend the duties of the high mission which has been confided to them.

On accepting, in circumstances so extraordinary, the charge, as honorable as weighty, of provisional governor of the republic, I consider it my duty to address myself to all my fellow-citizens, and all foreigners residing here, informing them of the patriotic motives which animate me in assuming the responsibility of the government in so critical a situation for our country.

It is not the ambition of ruling, nor the necessity of a distinguished position, which has determined me to occupy a post as difficult as laborious, but the desire of shunning greater evils to our country, so tortured by civil discords which do not proceed from the character of our people, but from the errors and blunders of its rulers.

The recent events which have produced the actual situation demonstrate this in the most eloquent and painful manner. When, two years ago, Dr. José E. Ellauri began his government, he found the republic pacified by the effort of all good citizens, who offered him the most sincere assistance in guiding it in the path of progress and prosperity, if, with a policy less narrow and petty, he had desired to avoid delivering the destinies of the country to a determined circle, and had known how to utilize the good disposition of a portion of citizens who were excluded by his administration. By design, by tenacity of character in not accepting any other mode of seeing than his own, or by not knowing how to comprehend the exigencies of public opinion, he has made useless the best intentions of citizens in favor of the public good, and, perhaps, without desiring it, has conducted the country to return to the errors of the times in which *blind party spirit does not restrain itself even before the seat of the magistracy*, errors which Dr. Ellauri condemns in his manifesto of the 12th of January. And recognizing this, the Ex-President did not understand that public opinion could not accept as truth his pretended political impartiality, since all his acts tended to favor one of the fractions of our parties, excluding from participation in the administration all others.

In accordance with this was the decree of the 14th of January, nominating two ministers who represented only the petty personal policy which public opinion condemned, and which produced the fall of the government of Dr. Ellauri.

In noticing lightly these acts as causes of the fall of the previous government, and which gave motive for my being called to the provisional government, I have no other

object than recalling them as a profitable lesson, and as a guarantee that the country ought to expect that, while I exercise my elevated trust, I will have no other policy than what the interests of the country demand, calling to serve them all worthy citizens, without making odious and unjust exclusions.

Although the initiative of the events which have created the necessity of a provisional government, while it assures public order and guarantees internal peace, proceeds from one of our parties, as governor, I recognize that the government of the republic is, and ought to be, the government of the country and for the country, without odious distinctions between citizens, for, to all, the government ought to accord protection in their political and civil rights, and the most complete equality before the law.

The pacification of April, 1872, is an internal compact confided to the loyalty of the nation, and the government, which represents the interests of the nation, will make it a duty to comply therewith.

The persons and the property of the numerous foreign population which reside in the republic merit also the most efficacious protection, and one of the principal attentions of my government will be the preservation of internal peace, that the persons and interests of resident foreigners may enjoy all the guarantees which our laws concede them.

As soon as peace and the situation become consolidated, the first duty of the government will be to cause the republic to establish in all its plenitude the constitutional order of its institutions, accidentally disturbed by the separation in fact of the person of Dr. Ellauri from the functions of President of the republic.

For the attainment of these patriotic objects, I hope that all well-disposed and patriotic citizens, whatever may be their political opinions or the party to which they belong, will not fail to lend their assistance to the provisional government, which has no part in the acts of the government of Dr. Ellauri, and which produced his fall, which was inevitable.

The question is of the good of the country which belongs to all, of repairing the evils already caused, and of shunning others still greater, which civil strife, always ruinous, produces; and to this work of reparation and common good all ought to lend their assistance. As governor, I shall esteem it an honor to accept that of all my fellow-citizens without distinction.

My only satisfaction and my greatest glory will be to see, as soon as possible, peace and concord established between my fellow-citizens, and the republic entering on the normal rule of its constitutional institutions.

PEDRO VARELA.

MONTEVIDEO, *January 17, 1875.*

No. 667.

Mr. Caldwell to Mr. Fish.

No. 14.]

LEGATION OF UNITED STATES,
Montevideo, February 16, 1875. (Received March 22.)

SIR: In my dispatch No. 12, of January 20, I gave you an account of the revolution of January 15, and the establishment of a provisional government. I have now to recount how this government has become legal and constitutional.

It is not to be supposed that so sudden a change of government as that of the 15th could take place entirely without opposition, though, owing to the improvisation and supineness of President Ellauri, there was no opposition in the capital. In the country the chief of the "whites," (blancos,) Colonel Aparicio, began to collect forces, and soon got quite a number of men under arms. The constitutional President, Dr. Ellauri, issued no proclamation, and, though besought, made no movement, but remained mute in his asylum, on board the Brazilian iron-clad. The provisional government, while making vigorous preparations for combat, proposed terms of compromise to Colonel Aparicio. They even permitted his agents to visit Dr. Ellauri on board the iron-clad, to receive his advice and orders for their chief. He declined to give any directions whatever, but let matters take their course. Under these circumstances

an arrangement was soon made, by which Colonel Aparicio was to disband his troops, the government paying the expenses incurred, the chiefs of three of the departments were to be "whites," and the regular elections were to be held at the close of the year. In the mean time the legislature, by the absence of some of the "whites" and the calling up of their substitutes, had become entirely in the interest of the party in power. Thereupon the provisional governor, on the 22d of January, appeared before the legislature and resigned his office, offering to give a strict account of his acts. The legislature, in joint session, declared that Dr. Ellauri had ceased to be constitutional President, and unanimously elected, to replace him for the term of two years, Don Pedro Varela, late provisional governor, who at once took the oath of office, and the same day appointed as cabinet officers the same who had acted in the provisional government. On the 28th a *Te Deum* was chanted in the cathedral in "*celebration of peace*," followed by a military review. Thus has ended this most remarkable revolution.

Colonel Aparicio has been rewarded with the grade of general.

The representatives of foreign governments resident here gave no official recognition to the provisional government, but on the 10th instant we called in a body on the President, and the Brazilian plenipotentiary, in our name, expressed desires for the peace and prosperity of the republic.

How long this government will last it is impossible to say, but, at present, there is no opposition to it in any quarter.

* * * * *

I am, &c.,

JOHN C. CALDWELL.

No. 668.

Mr. Caldwell to Mr. Fish.

No. 16.]

LEGATION OF THE UNITED STATES,
Montevideo, March 16, 1875. (Received April 21.)

SIR: The political condition of this country has remained substantially unchanged since my dispatch No. 14 of February 16. While there is much uneasiness and a general want of confidence, there is no organized opposition.

Since my last dispatch, the government has arrested fifteen of the leading "whites" (blancos) of this city, and, after keeping them some days in prison, put them on board a sailing-vessel, which it chartered and turned into a man-of-war by placing on board a cannon and a guard of sixty men with their officers. This vessel, the "*Puig*," has sailed with destination of Havana, where these prisoners are to be landed. The cause of these arrests is alleged to have been a conspiracy to overthrow the government and assassinate its officers, the particulars and the proof of which have not yet been made public. The guilt of some, at least, of these parties is generally disbelieved.

The terror inspired by this act was great, and many leading men, supposed to be obnoxious to the government, have fled the country, most of them taking refuge in Buenos Ayres.

Aside from political troubles, there is a great monetary crisis. Two of the strongest banks have suspended payment, and business is entirely

prostrate. The new government has already issued three millions of paper-money, and there is a project of law to issue seven millions more, at the same time making it legal tender. The minister of the treasury also proposes to pay the interest of the internal national debt in this irredeemable paper. If this becomes law, it will cause the ruin of many commercial houses which are large holders.

Very respectfully,

JOHN C. CALDWELL.

No. 669.

Mr. Caldwell to Mr. Fish.

No. 18.]

LEGATION OF THE UNITED STATES,
Montevideo, April 16, 1875. (Received May 21.)

SIR: In compliance with a special request of the minister of foreign relations, I inclose a copy of the message of the President of the Republic of Uruguay on opening the 3d period of the 11th legislature. I inclose also a translation of the same. Any peculiarities of expression that may be noticed are faithful reproductions of the original.

I respectfully call attention to the paragraph in which the President says that Uruguay will take part in our Centennial Exposition. The commissioners of this government have not yet been named, although I have repeatedly urged their prompt nomination.

Very respectfully, &c.,

JOHN C. CALDWELL.

[Inclosure 1 in No. 18.—Translation.]

Message of the President of Uruguay.

Honorable senators and representatives:

It is no mystery, for the acts are yet palpitating, that the throng of complicated events, origin of the present situation, has prevented the government from taking charge of the administrative march of its predecessor in order to give an account to the general assembly of the movements of the past year. For the moment it can barely offer you a review of the events to whose unfolding you have contributed with the most plausible patriotism and greatest efficiency. In thirty days of administration, received, if not in complete disorder, yet in a state approaching it, by the most melancholy forgetfulness and most shameful abandonment, human will and intelligence were powerless to produce all the good, and the organization which a nation, as torn as exhausted, has a right to exact and enjoy, which has lived until now cherishing hopes of prosperity with each administration to which it confided its destinies, hopes which vanished on the termination of these administrations. Two years have passed without giving solid promises, not to say a solution, to the important and vital economic and political questions which profoundly affect the well-being of the republic.

From the country were coming, to this center of population and of culture, constant complaint against the disorder and disorganization in which it lived, and a constant protest against the incessant taunts (!) of which the inhabitants of the interior were victims. If economical and political questions were treated with contempt, being treated with indifference and incapacity on the very rare occasions when attention was bestowed upon the exigencies of a situation difficult and calamitous, with not less deplorable indifference were viewed the just impotency of a people anxious to reconstruct its administrative organization, with so much the more right as its life was a long pilgrimage of continued misfortunes. In such situation—the country surrounded by dark horizons—the prospect which the future offered to its noble desires could convey to its spirit only discontent and despair. A strife having been pro-

duced, perhaps without example even in those epochs where rancorous party-spirit provoked turbulent agitations of unbridled passions—where one ought to expect that the public force would serve as a moderating element—those charged with guarding the life and liberties of the people, with inexpressible stoicism, did not even employ means leading to the avoidance of shedding of blood, or preventing in open day the streets of the city from being converted into a bloody field of battle with all its sad details. Yet more, the police fired upon the people without any representative of the government attempting to prevent it, giving the monstrous example of assassinating citizens whose passions could lead them to decide their questions with arms, without making an attack upon an authority which then, and before then, already merited the end which overtook it, and to which its unpopularity led it. Not one member of the government appeared in those moments of mournful solemnity. Had there not been an honorable and valiant military force, which, having a knowledge of the duties of a soldier of democracy, hastened to put itself between the inflamed combatants, God knows what or when would have been the end of that battle, covering with mourning the society of Montevideo, and later, assuredly, the whole nation. So great apathy in presence of so great desolation, that unqualifiable retreat when there was flowing in the streets the blood of citizens engaged in strife, and even that of indifferent persons, (for in these contests it is impossible to make distinctions,) exhausted public patience; for there are moments when resignation lends itself to be interpreted as shameful cowardice. A government incompetent and more than incompetent; indolent and incapable of solving grave financial and economical questions; insensible to the claims of the organization promised in its programme; living in a little circle, and receiving thence its inspirations, with forgetfulness and belittling of the aspirations of the country, ended by showing itself incapable of guaranteeing the life of the inhabitants of the republic, and, what is a thousand times worse, indifferent and cold before such a tremendous calamity, for it was the germ of a terrible war, if a change such as that which has taken place had not hindered with firm hand and unconquerable will the unfolding of so great a danger.

Then there was produced spontaneously the most patriotic, the most solemn, the most glorious of revolutions, and events have shown clearly that this change was not only a sentiment, but also an anxious wish of the people. Those great movements which arise, live, and consolidate themselves without meeting with resistance are the work of the clearest public opinion. The army trembled with indignation on contemplating so great injustice, for our soldiers are not automaton, insensible to the griefs and complaints of their fellow-citizens, nor unscrupulous machines to prop a crumbling and hopeless situation. A manly people, who had conquered by unheard-of efforts the right that its authorities should live in labor, and not vegetate in irritating apathy, demanded of the army that it should restore to them the forces with which they had invested it, and thus it was that army and people, without shedding a drop of blood, without committing the most insignificant excess, without taking possession, as a precautionary means, of the members of the government, without imprisoning a single citizen, and, in a word, without changing order or breaking the peace, brought about the salutary transformation which joyously salutes the nation. However vulgar it may be, it is necessary to say, that no detail may be wanting to this movement, which is the first and most notable of our political events, an absolute change in the order of things was brought about, and not a single night-guardian was absent from his post, and on the following day continued his ordinary service with the regularity of normal epochs. After a contest which held in ebullition the passions, the conquerors had sufficient strength of mind to dominate its own passions, and no one will have the right to complain of having been the victim of an excess or even of an intemperate word, things nearly inevitable in like situations, and which, even if they had occurred, do not take away the policy and elevated aims of a revolutionary movement. Three prefects, (*Jefes Politicos*), erroneously interpreting the duty of loyalty, desired to hear from Dr. Ellauri, with the end of sustaining his authority if he so desired. The provisional government, trusting in the popularity of the revolution, and with the earnest desire of saving the country from the disturbances of a struggle, however easy and imminent a victory might be, furnished all facilities for bringing about this interview. The results, gentlemen of the senate and house of representatives, you can judge, when you call to mind that on the following day the ministers of government and war, accompanied by some citizens whose patriotic interest for peace deserves all praise, subscribed the compact recognizing the provisional government and reproducing some of the clauses of the agreement of April, which, without this, the government was disposed to respect as a national compromise. The aspirations of the government remained entirely satisfied. The designs of the revolution began to take form in a manner that authorized flattering hopes, for in a few hours the nation saw the political horizon, previously obscure, cleared; had arrived at a longed-for change of an intolerable situation without shedding a drop of blood, without altering the peace of the republic, or originating the great expenses which are the results of our revolutions. The last, the most hopeless of the chiefs, senators and representatives, have called at

most for the employment of some guerrillas to insure their dispersion. The past situation was destitute to such an extent of popularity and sympathy that it had not a single supporter to disquiet the country. From this its unpopularity is shown. No eloquence can be more persuasive than the simple narration of the facts. Such was the situation when the legislative body, penetrated with the necessity of making it legal, conferred upon me the high and honorable distinction of electing me unanimously chief magistrate of the republic. Called to such high as well as difficult functions, my first impression was to offer myself as a simple workman, if such were needed, who in this humble character has always served the country, refusing consequently to discharge a principal part, which demands higher qualifications. But reasons of a higher kind, which you will easily understand, and the decided desire of contributing energetically and efficiently to the public good, have induced me to accept the post which the honorable assembly, in the name of the nation, deigned to confer on me. The programme of my government was shown on the first day, and I avail myself of this occasion to reproduce it in a few words: a revolution which was initiated without the characteristic features of war, which meets with support in the entire republic, for it knows profoundly its legitimate and pure aspirations, can produce no other government than the government of the people and for the people.

The executive power is resolved not to pass in the least beyond its duties, nor to permit the slightest transgression of its rights. It aspires to preserve an unalterable harmony between governors and governed, but if any one permits himself to interrupt this harmony by any attempt against the vote of the country, as shown by the honorable legislative body, as the government will be severe and immovable in punishing and repressing any abuse of its delegates, so it will punish with implacable severity, within the limits of the law, the disturbers of the public order. I hope this will not occur, for recent events have shown that the most solid support of the new order of things is public opinion, whence it had its origin, and has force and life. The promises which it made, far from being a chimera, are an incontestable reality. The government, interested that the credit of the nation should not suffer, especially abroad, when the revolutionary movement may take unfavorable proportions, taking into account previous events, has attended to the service of its debts with particular exactness, giving this fact as result, that the titles will increase in value. This proceeding, when in the first moments of a revolution there are unforeseen expenses for extraordinary exigencies, shows to what extent have been and will be respected the compromises of the nation, even disregarding the pressing necessities of special situations like that we were passing through. While the government which arose from a pacific situation was a delay and menace to the credit of the state, that which began by revolution has established the credit, preserving the dignity of the country. Our economic situation is a secret to nobody, as it had its origin and wide-spreading roots in the preceding administration. In fact, I am engaged in removing the gravity of so great an evil, and soon the honorable legislative body will know the views of the government, and from them I expect light and fruitful co-operation in this most difficult task. In the branch of government there has been barely time for the removal of certain prefects and their replacement by citizens no less worthy of so delicate a charge. The foreign relations are in the same condition as when the preceding administration made them known to you, with the exception of those with the Argentine government, which has just recognized ours. The existing interruption is in process of arrangement, to which end Don Francisco Bauza has been sent in character of confidential agent, who has been received with marks of regard and distinction. The government has received with pleasure the official visit of the distinguished members of the diplomatic corps resident in the republic, and I have the pleasure to announce to you that these agents, on recognizing the actual government, have expressed their sincere desire for the peace of the republic and the advancement of the Oriental people. The installation of the new government has been communicated to foreign governments, and its desire to preserve and draw closer the cordial relations which ought to bind all nations. *The republic will take part in the exposition of the United States and Chili*, for which they were seasonably invited. To this end orders will be given that she may be worthily represented. Because of recent events, a part of the army was put on a war-footing, and to this end possesses the armament most favorably known. As it was impossible in the first moments to find the number of arms necessary for all the army, a contract has been made, and in a short time the minister of war will receive the quantity of Remingtons needed, as well as a battery of Krupps of the most improved system. When the army of the three arms is put in this condition, it will furnish greater guarantees for preserving tranquillity, attending at the same time to better public service. I ought to make especial mention of the army in the moments which the country has just passed through. Its chiefs, distinguished soldiers, have known how to impress on their soldiers a morale and discipline worthy of all consideration. As I have shown, in the rapid exposition I have made, the government has not had time to give a minute and exact account of all the incidents that have occurred. Shortly the reports which will be sent you by the respective ministers will give you

a more exact account, if I have omitted anything in this exposition, which should inform you that as you have not yet received the reports for the year 1873, and as I have just received the government, and as the antecedents which ought to exist for the year 1844 do not exist, they must be collected to comply with a constitutional provision.

Meantime, I congratulate myself on being able to declare open the ordinary sessions of the third period of the eleventh legislature.

PEDRO VARELA.

No. 670.

Mr. Caldwell to Mr. Fish.

No. 19.]

LEGATION OF THE UNITED STATES,
Montevideo, April 16, 1875. (Received May 21.)

SIR: Since my dispatch No. 16, March 16, the most important public event has been the passage, on March 27, of a law authorizing the President to cause the issue of legal-tender notes in sufficient amount to pay all the internal debts, amounting to about twenty-four million dollars. This law is the project of the President himself. It provides that, on due notification, all holders of the public debt shall bring in their interest-bearing bonds and receive in payment therefor this irredeemable paper, which bears no interest. If any one shall neglect for one year to convert his bonds into this paper, his claims shall be disregarded until all other obligations of the government are discharged. The result of the passage of this law (which has not yet been carried into effect) has been to destroy what little business there was and to aggravate the situation to an intolerable extent. The paper money of the government which was already in circulation—less than a million of dollars—at once fell to a discount of from ten to twenty per cent., and, if the law is rigidly enforced, the paper will have merely a nominal value.

The most of this debt is in the hands of foreigners, the Italians alone holding more than seven millions. It is very much divided, the most of it being held in small sums by laborers and small dealers.

The income of many families has been derived wholly from the interest on this debt; and now that the payment of interest has ceased, and there is threatend loss of most, if not all, of the principal, there is already much distress, which must greatly increase. Business is at a stand-still, and many laborers are leaving the country for Brazil. The status of most of this debt was peculiar. It was not to be paid out of the general revenue, but special rents were set apart for its amortization. It was therefore a debt with a mortgage.

Before the project had become law, the foreigners of various nationalities besought their representatives to endeavor to prevent the accomplishment of so great injustice by timely representation and protest. The feature of the proposed law which compelled the bondholder to give up his title on the receipt of worthless paper seemed to me an attack on the right of property, and in this sense I signed the protest, a translation of which is inclosed.

This protest is signed by every foreign representative resident in the capital. I had no design to interfere, in the slightest degree, in the internal affairs of this government, but thought this attack on the property and rights of American citizens deserved a protest.

I trust my action will meet with the approval of the Department.

Very respectfully,

JOHN C. CALDWELL.

[Inclosure 1 in No. 19.—Translation.]

*Protest of the diplomatic and consular corps.*MONTEVIDEO, *March 22, 1875.*

MR. MINISTER: The undersigned have the honor to direct themselves to your excellency to communicate:

That several days ago many very respectable foreigners, holders of the titles of the various internal debts of the Oriental Republic of Uruguay, addressed themselves to the honorable legislative houses of the nation, begging them to refuse their sanction to every project presented, or to be presented, that, under whatever form, might tend to alter the terms established in solemn public compact, in which are now discharged the service of the aforesaid debts, and praying that they be preserved as they now exist, in accordance with justice and true public convenience.

So clear, so just, so irrefutable are the arguments of right in which the petitioners founded their request, that there was more than a rational motive for thinking that they would be heard with interest and taken into consideration. But, contrary to what was to be expected, the petition of our fellow-citizens has been disregarded to such an extent as, in our opinion, to be completely neglected and ignored, which implies, though silently, a full and plain denial of justice; then it was they took the resolution to approach the undersigned, who are the official protectors and safeguards of their interests, presenting to the diplomatic and consular corps accredited to this republic an exposition analogous to that which they had directed to the honorable chambers, and in which are reproduced the reasons by which are evidenced their legitimate and perfect right to oppose, demand, and protest against all change which is sought to be introduced in the service of the aforesaid debts, and which may injure, wholly or in part, honestly and dearly acquired, in benefit of the credit of the state solemnly guaranteed. Also, the undersigned have been compelled to hear, and could not neglect to attend to, the well-founded observations of their fellow-citizens in regard to the danger which, according to them, menaces them, that the state, in creating a new paper money, would make the effect of the law retroactive in respect to transactions between private parties previous to the date of its promulgation.

In consequence, the undersigned solemnly protest before your excellency against the alteration in the service of the above-mentioned debts, in the form in which it is proposed, and against the retroaction applied to the payment by agreement between private parties, and announce to your excellency that they hold the government of the republic responsible for the consequences that may arise in case the projects referred to, be put in execution.

The undersigned avail themselves of this opportunity, &c.

To his excellency the minister of foreign relations.

Signed by the representatives of Brazil, United States, Spain, Italy, Argentine Republic, France, Great Britain, German Empire, Denmark, Belgium, The Low Countries, Sweden and Norway, Switzerland.

No. 671.

Mr. Caldwell to Mr. Fish.

No. 20.]

LEGATION OF THE UNITED STATES,
Montevideo, May 16, 1875. (Received June 24.)

SIR: The threatening relations between the Argentine Confederation and the Empire of Brazil, and the rapid and extensive arming of both powers indicate the possibility, if not the probability, of war. The negotiations now going on at Rio de Janeiro, it is hoped, and by many believed, will end in a peaceful solution. But if, unhappily, it should turn out otherwise, the geographical position of Uruguay is such that its prosperity, if not its independence and existence, would be at stake in the event of war. Its possession by Brazil would be of vital importance as a base of operations, and there is reason to fear that she would avail herself of any pretext to violate the neutrality of the soil of Uruguay, and even to take possession of its government. Such action by Brazil

this country has not the material force to prevent. I am assured by the President of this republic that in the possible event of war his government would maintain and enforce the most absolute neutrality. But as Uruguay is a weak country, placed between two stronger powers, both of which would, in the event contemplated, desire its soil as a battle ground, there is reason to fear that its neutrality might not be respected. In the contingency named I respectfully ask instructions to govern my conduct, if either power should violate the neutrality of this republic in such manner as to threaten its independence without any wrong done on its part.

Very respectfully, &c.,

JOHN C. CALDWELL.

No. 672.

Mr. Caldwell to Mr. Fish.

No. 22.]

LEGATION OF THE UNITED STATES,
Montevideo, July 16, 1875. (Received August 20.)

SIR: I have the honor to inform you that the anniversary of our national independence was celebrated on the 5th instant with circumstances of unusual cordiality and enthusiasm. Flags were displayed on all the public buildings, and the national salute was fired by Her Majesty's ship *Amethyst*, (there being no United States saluting ship in the bay,) and replied to by cannon from the fort. All the cabinet officers, most of the military officers in full uniform, and a large representation from the civil employés of the government called at this legation and tendered their congratulations upon the anniversary of the birthday of the great republic.

All the ministers and consuls of foreign powers, naval officers from all the men-of-war in the bay, citizens of various nations, to the number of several hundred, thronged the legation in the day and evening, and in toasts and speeches, as well as by their presence, testified their sympathy with our institutions and their admiration of our great prosperity.

The government sent me five bands of music, which played during the day and night. In the evening the public building, where the congress holds its sessions, was most brilliantly illuminated.

Very respectfully, &c.,

JOHN C. CALDWELL.

VENEZUELA.

No. 673.

Mr. Russell to Mr. Fish.

No. 41.]

LEGATION OF THE UNITED STATES,
Caracas, January 7, 1875. (Received February 20.)

I have the honor to inclose a communication, with translation, from the minister of foreign affairs to the gentleman in charge of the French

legation. This is in reply to a request from M. L'Hôte, that French passports delivered up by French immigrants to Venezuelan officials might be restored to them.

It will be seen that the government of Venezuela claims that all immigrants who receive the benefit of the immigration laws, (meaning, as I suppose, by receiving free passage, food, and shelter at the immigration rooms, and the like,) are Venezuelan citizens at once, although exempt from military service; and that the intervention of the respective governments of these persons will not be allowed in any case in which diplomatic action may be asked. Government claims that every immigrant coming hither under government auspices thereby elects to be a citizen of Venezuela at once upon his arrival, and that his children also become citizens, losing all claim to the protection of their native country, (or adopted country.)

There are many immigrants from the United States remaining here, and it is safe to say that not one of them was aware of this law, or had any intention of renouncing his allegiance or of losing the protection of the United States Government in proper cases.

I therefore respectfully ask for instructions as to the course to be pursued in case of a claim for diplomatic intervention made by any United States citizen who has immigrated to Venezuela. Pending an answer, I should act precisely as if such persons were entitled to all the rights of United States citizens.

I ought to say that while I have had no occasion for official intervention in behalf of any of this class, I have had almost daily occasion to make informal applications in their behalf, and always with success. For example, the rule of government is to refuse passports to any immigrant who has not been here for three months; and without a passport, no one is allowed to leave the country. Yet every application which I have made has been promptly and courteously granted; and more than twenty immigrants having been shipped to work their passage, by the exertions of Mr. Kingan, acting consul at La Guayra, have in this way been enabled to leave Venezuela.

The action of the authorities in this matter may have been prompted, not only by their manifest desire to stand well with the United States, but also by a natural wish to rid their country of such a class of persons as many of the recent immigrants have been.

Awaiting a reply, I am, &c.,

THOMAS RUSSELL.

[Inclosure in No. 41.—Translation.]

From Mr. Blanco to Mr. Hôte.

CARACAS, *January 5, 1875.*

In compliance with orders, which I have received from S. E. the President of the republic, the undersigned, minister of foreign relations, has the honor to reply to the note dated December 14th ultimo, in which the honorable chargé of the French legation takes occasion to set forth that several French immigrants have come to his honor complaining that the board of immigration refuses to return to them the passports that have been presented to it, and asks, in consequence, that the difficulties may be removed which may prevent the restoration of said documents.

The law of May 18, 1855, concerning immigration, expressly provides that immigrants shall obtain letters of naturalization as soon as they arrive at Venezuela, and shall be excused from forced military service wholly for ten years; and article 17 of the executive decree of July 2 of said year, which carries said law into effect, designated the officers by means of whom (or through whom) their respective letters are to be delivered

to the immigrants, establishing, moreover, that the miners or children of the family shall be included in the naturalization which is extended to their parents.

In accordance with these provisions of law in force in the republic, the government of the undersigned, through the minister of the interior and of justice, by resolution of December 1, 1865, declared, "that as many as have come to the country or came * in the character of immigrants, and their minor children at the time of their arrival, if they have received the benefit of the laws of immigration, are Venezuelans." And this resolution, as your honor will see in the inclosed copy, is found inserted in No. 26 of the official newspaper, published at said time, with the title of "official summary."

By this statement the Hon. M. L'Hôte will understand that by the legislation of the republic all who enter its territory as immigrants are Venezuelans from their arrival, with the privilege of not being obliged to render any military service for ten years, and that, therefore, the government of the undersigned cannot accept, in regard to them, the intervention of the legation.

The undersigned avails himself, &c., &c.

JESUS M. BANCO.

No. 674.

Mr. Russell to Mr. Fish.

No. 52.]

LEGATION OF THE UNITED STATES,
Caracas, March 6, 1875. (Received March 22.)

SIR: I have the honor to send a brief record of events showing the present state of things in Venezuela.

I inclose a copy of a proclamation of the President, with a translation, and would call attention to the last paragraph, in which the wealth of this government and its ability to cope with other powers are set forth. It is generally supposed to refer to Holland and Colombia.

The President returned to Caracas March 1, and was welcomed with great display and at great cost. The rejoicings occupied four days, and included a municipal banquet, which was attended by all the diplomatic body. This body was also received officially by the President, whose speech was an assurance that internal peace will long continue undisturbed.

At the consular reception, the President stated that the blockade had not ceased, but would cease soon; that by new custom-house rules the custom-houses of Vela de Coro and Maracaibo would be suppressed, and all foreign trade, export or import, would be forbidden at those ports. He added that, by discriminating duties on ships and goods, he intended to destroy all communication with Curaçoa, and that no vessel should come to Venezuela that touched at Curaçoa even for coal. Puerto Cabello is to be substituted for the closed ports, and a depot of coal is to be established there. I reserve any further report on the above until the publication of the decrees, some of which are already signed.

The 22d of February was honored by the display of the Venezuelan diplomatic and consular flags, and by visits from my colleagues.

I am, &c.,

THOMAS RUSSELL.

[Inclosure 1 in No. 52.—Translation.]

General Guzman Blanco, President of the Republic, in campaign, to the constitutional army.

COMPATRIOTS AND COMPANIONS IN ARMS:

The sixteen thousand soldiers of the 1st, 2d, 3d, 4th, and 5th army corps, who are now formed in the grand parade of Coro, joined with the two thousand of the

* This seems to be an error for "shall come."—T. F.

6th corps, and the fifteen hundred of the 7th, the fifteen hundred of the Barcelona and Margarita divisions, and the one thousand of the auxiliary force of Zulia, make a total of twenty-two thousand men of the active army, besides which there are eight thousand of reserve garrisoning all the States of the Union from the Orinoco to the Záchira.

These thirty thousand men, representatives of the desire of Venezuela, have re-established peace, vindicated popular dignity, and strengthened the titles of my government, more by the power of opinion than by the action of force. All the political problems of the past having been resolved by the revolution of April, 1870, there remained pending that of the ambition of some (one) of its chiefs, and in one hundred days the people have shown them that it is master of its own destinies, and that we, its servants, have been and are only instruments, more or less competent, of its intelligent and patriotic will. I congratulate you on a lesson so eloquent, and I make known here my gratitude toward the people for the support they have given me, and toward each one of the leaders of the army corps, who with loyalty and abnegation have confounded the ambitious, and confirmed once more the honor of the liberal army. But I owe to the country another congratulation. These thirty thousand men not only signify our power and sustain internal peace, but they show that, when the case arrives, our independence and our (rights) international rights would be defended with a force of fifty thousand men of the active army, and with twenty thousand or forty thousand of reserve, without adding that there are few peoples that can count on such resources and money, relatively, as those of which Venezuela can dispose.

Long live the sovereign people!

Long live the peace of the republic!

Long live the constitution of '76!

GUZMAN BLANCO.

HEADQUARTERS IN CORO, *February 17, 1875.*

No. 675.

Mr. Russell to Mr. Fish.

No. 53.]

LEGATION OF THE UNITED STATES,
Caracas, March 6, 1875. (Received March 22.)

SIR: I have the honor to report that the British minister, Mr. Middleton, has requested me to join him and one or more of his colleagues in remonstrating against the Venezuelan law which requires masters of foreign vessels to deposit their papers in the custom-house while in the ports of Venezuela.

I declined, for the following reasons: 1. I have no right to comply with his request without instructions to do so. 2. The question is one of internal and municipal law, to be settled by each country for itself. 3. No practical inconvenience has arisen from the law, and no complaint has ever been made to me by any United States citizen of its working.

Courtesy to my colleagues, however, seems to require me to state the facts, and to ask whether the Department desires to give me instructions. The law requires that the vessel's "roll or register be deposited in the custom-house. (Codiyo de Hacienda, 2d ed., ch. 2, art. 41, clause 6, p. 38.) Our law requires the register to be deposited with the United States consul. (Act of February 28, 1803, sect. 2, vol. 2, page 651, United States Statutes.) The United States law now corresponds with that of most maritime nations. The United States law, act of March 3, 1817, vol. 3, p. 362, provides for the deposit of foreign vessels' papers with foreign consuls in the United States, except when the foreign nation does not give the same privilege.

In former times United States consuls have asked instructions on this subject, and captains have feared that they might incur a penalty by failing to comply with the United States law. Of course such fears were groundless; up to this time no practical trouble has ever arisen

under this law, nor is any likely to arise, for there are other means to enforce the obligations of ship-masters besides the consuls power to withhold papers.

Awaiting instructions, I am, &c.

THOMAS RUSSELL.

No. 676.

Mr. Russell to Mr. Fish.

No. 56.]

LEGATION OF THE UNITED STATES,
Caracas, March 18, 1875. (Received April 16.)

SIR: I have the honor to transmit a copy of the decree of the President, (who resumed the functions of that office March 16,) closing the ports of Maracaibo and La Vela de Coro for foreign commerce, the copy of decree being numbered 1, and with it I send a translation, numbered 2. The same gazette contains a decree establishing a land custom-house at Porto Cabello, in pursuance of the policy of the decree inclosed. The object, as declared by the President, is to prevent unlawful trade with Curaçoa, which now deals largely with the ports closed by this decree, and also to punish Curaçoa for past offenses.

Curaçoa, lying near the coast, and having an excellent harbor, has been a port for transshipment of cargoes to and from the shoal harbors of the places referred to. It is now intended to transfer this trade to Porto Cabello.

Porto Cabello lying nearly 300 miles from Maracaibo, and the current and wind setting strongly to the westward, this will greatly embarrass the exporters of the State of Zulia, and of the four other Venezuelan States that export via Maracaibo.

It is intended to relieve this difficulty by establishing a steam-line between Maracaibo and Puerto Cabello. General Pile, late United States minister, is engaged in this enterprise, under the auspices of Government.

The inconveniences caused to commerce are shared by that portion of Colombia which exports and imports via Maracaibo. It will be seen, also, that the free navigation of Maracaibo Lake by vessels of Colombia is forbidden, in violation, as is alleged, of an existing treaty between the two republics.

It is not improbable that war with Colombia may result from this and from the boundary question. An insurrection in "the Western States," is also probable, with a possible attempt to secede from Venezuela to Colombia.

The exports from Maracaibo to the United States, for the year ending September, 1874, amounted to \$4,198,168.59, including more than twenty million pounds of coffee, and being an increase of about seventy-five per cent. over the past year.

I am, &c.

THOMAS RUSSELL.

[Inclosure in No. 56.—Translation.]

PRESIDENT BLANCO'S DECREE.

I, Antonio Guzman Blanco, Constitutional President of the United States of Venezuela, &c., by virtue of the powers which the legislative decree of May 17, 1873, confers on me, decree:

ARTICLE 1. There is established on the island of Castillo Libertador, situated in the harbor of Puerto Cabello, a maritime custom-house of deposit to serve for the foreign

commerce of import and export, of the custom-houses of La Vela in the State of Falcon, and of that of San Carlos, in the State of Zulia, as well as for the commerce of transit for Colombia by the last-named way; all in accordance with the revenue code and with the orders of this decree. [N. B.—San Carlos is the custom-house of Maracaibo.]

ARTICLE 2. The manifests of importation shall be registered in special books called "Account of Deposit," opened in the form prescribed by article 3 of law 21 of said code, and with the due separation according to the destiny of the merchandise.

Also there shall be kept with the proper separation the manifests of transit for Colombia and of exportation for foreign places.

ARTICLE 3. The duties of importation shall be collected by the custom-house of deposit, according and in proportion as these may be drawn out for their destination, the goods on which they accrue.

ARTICLE 4. No warehouse dues shall be collected for the time while the whole or part of the contents of each cargo remains in the custom-house.

ARTICLE 5. The goods which the custom-house of deposit sends to any point on the shores of Lake Maracaibo may be carried freely to their destination before the examination that the custom-house of San Carlos shall make of them.

ARTICLE 6. In the port of San Carlos the transshipment of cargoes is permitted, which being dispatched by the custom-house of deposit are directed to any point of the Lake of Maracaibo, before the comparison of the packages composing them, with their manifests, in which (comparison) must concur one of the chiefs of the San Carlos custom-house, and the inspector or other officer of the custom-house of deposit, who must conduct the vessel to the point of transshipment or unloading in San Carlos.

§ 1. The transshipment permitted by the above article may be made when, in the judgment of the chief officers of the custom-house, there are inconveniences in doing it at San Carlos, at whatever point may be convenient from said port to Puerto de Palma de Tablaso.

§ 2. Like permission may be granted to the fruits and productions of the country which are dispatched from the custom-house of San Carlos for the custom-house of deposit destined for exportation abroad, one of the chiefs of the first-named custom-house being present at the transshipment.

ARTICLE 7. The custom-house of San Carlos shall take a record both of the goods so dispatched and of those which are unladen and placed in its warehouses, such record to be formal and compared with the manifest, the request to tranship or to discharge, with the permission at the foot, the list of ships' stores and ships' equipage, (meaning materials, tools, spare spars and rigging, and the like,) of the cargo-list or the proper copy and the certificate of examination; and he shall send it monthly to the examination bureau of the auditor-general.

ARTICLE 8. The foreign goods which the custom-house of deposit for the State of Falcon dispatches, can only be introduced through the custom-house of Vela, so that with the certified manifest issued thereby the contents of the packages constituting each cargo may be carefully examined.

ARTICLE 9. From the date of publication of this decree at Maracaibo and La Vela, the ports of San Carlos in Zulia, and La Vela in Falcon, are only qualified for the coasting-trade, with the restrictions contained in the following paragraphs:

§ 1. The custom-house of San Carlos can only carry on the coastwise traffic for ports beyond its jurisdiction in national (*i. e.* home) fruits, productions, and manufactures.

§ 2. Likewise the custom-house of San Carlos can deal with the fruits, productions, and manufactures of Colombia, whether subject or not subject to payment of import duties.

§ 3. The interior navigation of Lake Maracaibo remains absolutely free, both for fruits, productions, and manufactures of the country, and those of Colombia not dutiable, and of the foreign goods dispatched by the custom-house of San Carlos.

§ 4. The interior navigation of Lake Maracaibo and of its affluents can only be carried on by vessels of the country.

§ 5. The custom-house of La Vela can, in like manner, deal with the coastwise traffic in the articles named in the preceding paragraphs, but in regard to foreign goods it cannot do so, except for the shore-ports which are within its jurisdiction, in conformity with the provisions of law for its preventive service established by law 33 of the revenue code.

ARTICLE 10. The number and pay of the officers of the custom-house of deposit, as also of the custom-houses of La Vela and San Carlos, and that of the preventive service of each, maritime and land, for the detection of smuggling, shall be fixed by separate orders.

ARTICLE 11. The jurisdiction of the custom-house of deposit as to the preventive service is confined to the charge of vessels engaged in the business of that custom-house and to the island on which are situated said office and its wharves.

ARTICLE 12. The custom-house of deposit may permit vessels, home, or foreign, to go to the ports of La Vela or of San Carlos, whether in ballast or without other cargo than dispatched for that end, security being given for payment of the transit-dues, which shall

be made according to the sailing-papers issued by the custom-houses of La Vela or San Carlos, on the return of the vessel for her final departure on her foreign voyage.

§ 1. The government reserves the right to grant, when it thinks fit, looking to the request in each case, that the vessels to which this article applies, which go to load at the custom-house of San Carlos with the fruits and products of the country, may go abroad directly from that port.

ARTICLE 13. Under the inspection of one of the chief officers of the custom-house of deposit, it may permit the transshipment of the fruits and products of the country going from La Vela or San Carlos for exportation.

ARTICLE 14. The custom-house for deposit and those of the ports of La Vela and San Carlos must give each other as soon as possible the proper notice of having received the goods sent by the former to the two latter, and of the fruits and products of the country which have been sent from these for that, noting the conformity or otherwise of each cargo, with its clearance papers.

ARTICLE 15. The minister of public works shall make the needed orders for the works and repairs required in the building of the Castillo Libertador, to fit it for the offices and stores of the custom-house for which it is destined as may be necessary.

§ 1. The custom-house of deposit shall have separate stores for the goods destined for Maracaibo and La Vela for those of transit, and for the fruits and products of the country.

§ 2. Until the works and repairs of the Castillo Libertador are completed the custom-house of deposit shall transact its business in the building provisionally furnished for the purpose.

ARTICLE 16. All the powers which law 21 of the revenue code, as to frontier commerce between Venezuela and Colombia, gives to the custom-house of San Carlos to permit the transit of foreign goods destined to Ciente, shall be exercised by the custom-house of deposit, the former confining itself to making the examination and comparison with the permit of each cargo, in order to place at the foot of it the memorandum of examined and correct, if it so turns out, or to act according to law in the contrary case.

§ 1. The time for presenting the return shall begin to run from the day on which the custom-house of San Carlos sends the cargoes for transit, often attending to the examination and other operations of the custom-house.

§ 2. No warehouse-dues shall be paid for the goods of transit for Colombia, neither in the custom-house of deposit nor in that of San Carlos.

§ 3. The goods which, being declared for transit for Colombia, are in the custom-house of San Carlos at the publication of this decree, shall be dispatched thereby, according to the law, this matter sending to the minister of revenue an account of the persons to whom they belong, and of the packages which constitute them.

ARTICLE 17. The importation is permitted through the San Carlos custom-house in Maracaibo, with the forms fixed by law 21 of the revenue code of the native products of Colombia and the articles made of them in that republic, which by article 34 of said law are free of duty.

ARTICLE 18. There may be imported through the custom-house of San Carlos goods made in Colombia with materials or manufactures which are not wholly products of said republic, paying thereon the duties to which they are subject by article 33 of that law, according to their classes.

ARTICLE 19. Individuals who wish to establish on their own account deposits of mineral coal at Puerto Cabello shall receive from the government the free importation of the materials necessary for the coal-houses and without any expense, for the term of eight years, the portion of land to be used for that object which belongs to the nation, and is in a convenient place and not devoted to any public use.

ARTICLE 20. The vessels already dispatched or which may be dispatched from the United States or from Europe, bound to San Carlos, within 30 days from the publication of this decree, as well as those in like circumstances now in said port, may dispatch through said custom-house the cargo which they bring and the products of the country which they take away on their departure, all under the revenue code and the other regulations which govern this matter there.

§ 1. When the time fixed by this article has passed, the San Carlos custom-house shall send to the ministry of revenue an account of the vessels to which it applies.

ARTICLE 21. The provisions of this decree shall begin to apply in the custom-house of deposit from its publication in Porto Cabello, in that of La Vela after the state of blockade is suspended to which the coasts of the State of Falcon are subject, and to that of San Carlos, after it is published in that port, the custom-houses of deposit and of San Carlos allowing the time which article 20 grants to vessels carrying foreign commerce.

ARTICLE 22. The ministry of revenue shall communicate this decree to the proper parties and direct the further orders needed for its execution.

Given at Caracas, March 16, 1875, year 11 of the law and 17 of the federation.

GUZMAN BLANCO,
Treasury Santiago Fortacoa.

No. 677.

Mr. Russell to Mr. Fish.

No. 58.]

LEGATION OF THE UNITED STATES,
Caracas, March 30, 1875. (Received April 21.)

SIR: I have the honor to report that a question which may interest United States merchants has arisen, as to the construction of articles 20 and 21 of the decree closing the port of Maracaibo L. C. for foreign commerce. The decree was inclosed in my No. 56.* Article 20 provides that any vessel dispatched from the United States or from Europe *within thirty days from the promulgation of the decree*, may discharge and reload with products of the country at Maracaibo, (San Carlos.) Article 21 provides that the decree shall take effect at San Carlos *from the date of its publication there*, saving the lapse of time given by article 20 to the vessels engaged in foreign commerce. (Literally, keeping in view the lapse.)

I endeavored, in vain, to obtain an official construction of this clause in time for the steamer. But I have only now received the unofficial statement of the minister of foreign relations, that, in the opinion of the minister of revenue, the thirty days begin to run, for a vessel coming to Maracaibo, from the date of the publication of the decree at Maracaibo. The decree was published here on March 16. It was published much later in Maracaibo; probably as late as March 26. And the question may become of practical interest, because it is quite possible that vessels may sail from the United States thirty days after March 16, without having had notice of the decree.

Since writing the above, I have received from the minister of foreign relations an assurance that government will abide by the favorable construction herein stated.

I am, &c.,

THOMAS RUSSELL.

No. 678.

Mr. Fish to Mr. Russell.

No. 47.]

DEPARTMENT OF STATE,
Washington, April 24, 1875.

SIR: Your dispatch No. 61, of the 2d instant, has been received. It relates to the deposit of money by the Venezuelan government on account of claims of citizens of the United States. You state that that government is willing to transfer the sum to this Government with the understanding that, when received here, it be not at once distributed among the claimants. In reply, I have to inform you that no such condition can be assented to on our part. In view of the amount over-due, and the circumstances attending the delinquency of that government, we are sure that we have shown a considerate forbearance. Consequently, on receiving this instruction, you will demand the payment, without further condition or reserve, of the sum which, you say, has been deposited to the credit of the United States.

I am, &c.,

HAMILTON FISH.

No. 679.

Mr. Russell to Mr. Fish.

No. 66.]

LEGATION OF THE UNITED STATES,
Caracas, May 8, 1875. (Received May 28.)

SIR: I have the honor to acknowledge the receipt of Department's No. 38, referring to my No. 41 as to the claim of Venezuela, that all persons taking any advantage of the Venezuelan laws as to immigration, become at once citizens of this country, and lose all former rights of citizenship. My meaning would have been clearer if I had not used the words "immigrants" and inmigrados as equivalents. When we speak of an immigrant in the United States we mean one who has come to make our country his home. In Venezuela "inmigrodo" means one who on coming hither avails himself of any of the benefits of the laws relating to immigration, whether he intends to stay for a longer or shorter time.

By my Nos. 64 and 65, it will be seen that the President refers to this subject in his recent message. I repeat this extract here for ready reference. "Some legations have claimed that immigrants preserve their nationality, but I have maintained inflexibly the text (or doctrine) of the law of May 18, 1855, and the decree of July 2d, of the same year, which provide that all are Venezuelans who have or shall come to the country in the character of immigrants, if they have received the benefits offered after their arrival in Venezuela." It is possible that, by the words which I have underscored, the President intends to qualify the broad claim laid down in the letter of the minister to Mr. L'Hote quoted in my No. 41. That claim was that all who came (to Venezuela) taking advantage of the immigration laws, were at once citizens. But if the President means that the benefit must be received after arrival in order to result in denationalization, the qualification is one of form rather than substance. The forlorn stranger who lands at La Guaira, destitute and ignorant of the language, and who accepts the shelter of the emigration-house rather than to sleep in the street, or who eats the rations there provided, to escape starvation, ought not to be held to have made deliberate choice of Venezuelan citizenship and renunciation of his former nationality. Yet this is the precise state of facts in which this doctrine is applied.

The law of Venezuela contains so such doctrine. It only gives the privilege to "inmigrados" to receive nationalization papers, if they wish, with the further privilege of exemption for ten years from military service. This construction is a mere gloss devised by the officials charged with executing the law.

In accordance with the instructions of the Department, I have inquired whether any persons here have been furnished with certificates of naturalization. I cannot find that this is the case as to any inmigrado from any country. Fortunately no practical question is likely to arise on this point. I have had and now have no occasion to discuss it with this government. All my unofficial applications in behalf of this class of persons have been promptly and kindly attended to; and now, happily for themselves, almost every one that came from the United States has returned.

If occasion arises I shall not fail to protest against the application of this doctrine to United States citizens.

I am, &c.,

THOMAS RUSSELL.

No. 680

Mr. Russell to Mr. Fish.

No. 69.]

LEGATION OF THE UNITED STATES,
Caracas, May 10, 1875. (Received June 7, 1875.)

SIR: I have the honor to inclose an extract from the law of immigration and decree enforcing said law, (Featro de Legislacion, vol. 2, p. 213,) with a translation, showing that the claim of Venezuela referred to in my No. 41 and No. 66, in regard to the immediate denationalization and naturalization of all immigrants on their arrival, is not supported by the law cited to maintain the claim.

Even if the words which I have translated "will obtain" and "will receive," should be translated "shall obtain" and "shall receive," the intent would be clear, viz, that immigrants may receive naturalization papers if they desire, not that they must receive them; still less, that without receiving papers they become Venezuelan citizens by the mere fact of arrival, or the receipt of food, shelter, or other benefit. I have given all the law on the subject. A "resolution" of December 1, 1869, issued by the ministry of justice and the interior, provides: "Those are Venezuelans who have come to the country, or shall come, in the capacity of immigrants, and their minor children, at the time of their arrival, if they have received the benefits of the laws of immigration." (Recopilacion oficial, No. 26. Gaceta Oficial.) I give the original: "Son Venezolanos cuanlos han venido al pais ó vinieran en calidad de inmigrantes, i sus hijos menores al tiempo de su llegada, su han recibido los beneficios de los leyes de inmigracion." The President, who cites the law of May, 1855, and the decree of July 2, 1855, seems to have drawn his ideas and language not from those sources, but from this unauthorized statement of the law. There is no pretense that the ministry of justice possesses the right of legislation. It is remarkable that this government, in making a stringent application to ignorant strangers of the maxim that every man is supposed to know the law, should furnish proof that the highest officials are sometimes ignorant of it. The inclosure should have been sent with No. 66; but I was pressed for time when that was sent. I would repeat that no practical question has arisen, or is likely to arise, for the United States on this point. There has been no occasion for official discussion of it, and all my unofficial applications in behalf of immigrants have been promptly and courteously granted. Still, it has seemed proper to treat the subject more fully than I have done before. With Spain, France, and perhaps with Italy, grave questions may arise.

I am, &c.,

THOMAS RUSSELL.

[Inclosure in No. 69.—Translation.]

Extract from law of immigration, and decree enforcing the same.

LAW OF MAY 18, 1855, &C &C.

ART. 7. Immigrants will obtain, after their arrival, certificates of naturalization without the necessity of the requisites which the law of the subject has established for naturalization; and they shall be exempt for ten years, counted from the day when they arrive in Venezuela, from all forced military service in the regular army, [or permanent army,] navy, or militia.

"Executive decree of July 2, of 1855, carrying said law into effect." Joseph Thaddeus Nionagas, general in chief, President of the republic of Venezuela, &c., &c."

ART. 17. Immigrants will receive their certificates of naturalization through the governments of those provinces in which they have fixed their residence, who will make a report to the executive power, stating their names, the facts as to their conduct after having arrived in this country, the day on which they arrived here, and the port where they landed; whether they are married or single; and if married, whether they have a family, and of how many persons it consists, and the name, surname, and age of each individual.

Section 1 and only. The minors, or children of the family, shall be included in the naturalization which is promised to their fathers by means of the certificate, and the names of all shall be expressed in said certificate.

No. 681.

Mr. Russell to Mr. Fish.

No. 70.]

LEGATION OF THE UNITED STATES,
Caracas, May 15, 1875. (Received June 14.)

SIR: I have the honor to report that No. 47 of the Department was received last night, directing me to demand payment, without condition or reserve, of the amount now deposited on account of the United States Government. In compliance with that request, I have made such demand this day. When a reply is received, I will report at once.

Since my No. 61 was written, treating of this matter, President Guzman Blanco has referred to the subject in his message, as I have had the honor to report in Nos. 64 and 65.

I have since learned that he had withdrawn the minister of Venezuela from Washington some time since.

I have not supposed that his action in the premises was any reason for me to delay the presentation of this demand.

I have, &c.,

THOMAS RUSSELL.

No. 682.

Mr. Russell to Mr. Fish.

No. 71.]

LEGATION OF THE UNITED STATES,
Caracas, May 26, 1875. (Received June 24.)

SIR: I have the honor to inclose a printed copy of a decree regulating the rights of persons who have come to Venezuela under the laws of immigration, with translation of the same. The translation omits part of the preamble. By this decree it is provided that all immigrants who have taken advantage of the laws granting favors to such persons, must remain in Venezuela one year, or repay to government their passage-money; and Venezuelan consuls abroad are directed to give information of this to immigrants destined for Venezuela.

I am, &c.,

THOMAS RUSSELL.

[Inclosure in No. 71.—Translation.]

Decree regulating the rights of immigrants.

I, Antonio Guzman Blanco, constitutional President of the United States of Venezuela, &c., &c., &c. Considering that experience has shown in some cases that the liberal pro-

visions which government has made to promote education are abused; that by favor of these many individuals are brought from Europe, without intending to remain in this country, nor to act in accord with the protecting views of the government, &c., &c.

Decree:

ARTICLE 1. Immigrants who come to the country availing of the grants which are made by the decree of the 14th of January, 1874, and other provisions as to immigration now in force, shall have no hinderance in going from the territory of the republic after one year of residence.

ART. 2. Those who wish to go away before the term fixed by the above article shall be obliged to repay [literally, "to the repayment of"] the cost of their passages.

ART. 3. Every immigrant shall obtain from the central commission in the federal district a personal schedule, in which shall be set forth his name, age, and birthplace, state, and profession; date when he is enrolled as an immigrant, and name of the vessel in which he came, his departure, and the port of the republic where he landed. This schedule shall be issued by the president of the central commission, authorized by the secretary, and shall bear the proper consecutive number.

ART. 4. The president of the central commission, or those of the subordinates, shall issue a certificate to the person concerned, who asks it, stating that the immigrant has spent the term fixed for his residence in the country, or, in default thereof, repaid the cost of passage paid by the government. Said certificate ought to be authorized by the secretary of the commission, [or shall be certified.]

ART. 5. Immigrants, before they depart from the territory of the republic, shall go to the civil authority of the place and present the documents issued.

ART. 6. The civil authority, to whom the immigrant personally presents his schedule and the certificate issued by the junta, shall note on the registry all the facts which the first document expresses; and in the second, shall officially refer to the folio and date on which it is recorded, and also the name of the vessel, and the destiny whither the immigrant is bound abroad.

ART. 7. If the immigrant cannot obtain promptly the certificate of compliance with term of residence, because of there not being in the locality a subordinate commission of immigration, the civil authority, by the personal schedule which the immigrant presents, shall compute the time of his residence so as to be able to issue the official certificate of that which is noted on his register, [or which may be noted.]

ART. 8. The civil authorities that inscribe the immigrants who are about to go out of the territory of the republic, shall send monthly a full report to the minister of fomento, for the materials of immigration statistics.

ART. 9. The presidents of states, the collectors of maritime custom-houses, and port captains shall watch over the performance of the above directions, not permitting departure to any immigrant who does not prove to have complied with the requisites which are demanded by this decree in order to leave the country.

ART. 10. The consuls of the republic abroad shall instruct emigrants before coming to Venezuela as to the obligation which this decree imposes.

The minister of fomento is charged with the execution of this decree and with communicating it to those to whom it is proper. Given, signed by my hand, and countersigned by the minister of the proper branch at the federal palace, in Caracas, May 3, 1875, year twelve of the law and seventeen of the federation.

GUZMAN BLANCO.

Minister of Fomento, VICENTE CERONADO.

No. 683.

Mr. Russell to Mr. Fish.

No. 72.]

LEGATION OF THE UNITED STATES,
Caracas, May 26, 1875. (Received June 24.)

SIR: I have the honor to report that Dr. Erwin Stamman, Chargé of the German Empire, informs me that the sailing directions for entering the harbor of Puerto Cabello are erroneous in advising ship-masters to steer close to Fort Libertador. Owing to the formation of a shoal, this is now unsafe, and it is necessary to keep off shore "to the distance of fifty or sixty fathoms." A German vessel was recently stranded on account of her master's following the sailing directions. The informa-

tion kindly volunteered by Dr. Stamman is confirmed by a practical navigator. I therefore make report without waiting to hear from our consul. Dr. Stamman also states that vessels are forbidden to sail directly into the inner harbor of Puerto Cabello, and that they must anchor outside the fort and await visits from the custom-house and health officers. In default of this masters are subject to heavy fines.

Our commerce with Puerto Cabello must be greatly increased by the closing of the port of Maracaibo. And the publication of these facts as ship-news in the New York papers or otherwise might save much trouble.

I have, &c.,

THOMAS RUSSELL.

No. 684.

Mr. Russell to Mr. Fish.

No. 75.]

LEGATION OF THE UNITED STATES,
Caracas, May 31, 1875. (Received June 24.)

SIR: I have the honor to report that, on May 15, I addressed a letter to the minister of foreign relations, as follows:

LEGATION OF THE UNITED STATES,
May 15, 1875.

SIR: I am instructed by my Government to demand from the government of Venezuela payment of the sum deposited to the credit of the United States on account of the awards of the mixed commission—such payment to be without condition. In compliance with that direction, I now ask through your excellency that such payment may be made at once, and I trust that the honorable government of Venezuela will promptly comply with the request.

I take this occasion to renew to your excellency my assurances of high consideration.

THOMAS RUSSELL.

I afterward informed the minister that the New York steamer was expected to arrive and leave May 30 and 31. Receiving no answer, I wrote as follows:

LEGATION OF THE UNITED STATES,
May 31, 1875.

SIR: I have the honor respectfully to call the attention of your excellency, and through your excellency of this government, to my note of May 15.

I have the honor to renew, &c.,

THOMAS RUSSELL.

To His Excellency Hon. Dr. JESUS MARIA BLANCO,
Minister of Foreign Relations.

In a short time I received the reply which is inclosed with a translation. I sent the following answer:

LEGATION OF THE UNITED STATES,
May 31, 1875.

SIR: I have the honor to acknowledge the receipt of your excellency's note of this date in reply to my note of the 15th. My duty in the matter will be fully performed when I have transmitted the correspondence to my government. I sincerely regret the sad results which must inevitably follow such a reply to such a request.

I take this occasion to renew my assurances of very high consideration.

THOMAS RUSSELL.

His Excellency JESUS MARIA BLANCO,
Minister of Foreign Relations.

* * * * *

I have, &c.,

THOMAS RUSSELL.

[Inclosure 1 in No. 75.—Translation.]

Minister of foreign affairs to Mr. Russell.

CARACAS, May 31, 1875.

The undersigned, minister of foreign relations, has the honor of replying to the note of the 15th ultimo in which the honorable minister resident of the United States of North America, by virtue of instructions which he announces that he has received from his Government, asks the payment, without any condition, of the amount which is deposited on account of what may prove to be justly due from the republic to North American citizens. The undersigned had already the honor to state to your excellency confidentially that the government of Venezuela is disposed to deliver to the legation the sum which the company of credit keeps on deposit, as well as the other monthly sums as they come due in succession, with the understanding that they should not be distributed, except after the revision of the unjust awards of the tribunal which gave the judgments; because in any other way the error might be incurred of paying claimants who are not creditors, with injury to the real creditors.

After the resolution of the government was communicated to the legation, on the 29th of July, 1873, by which was directed the distribution of 13 per cent. of 40 units of custom-house receipts, applied to the payment of foreign claims, that condition was established; and then was said to the Hon. William Pile, the predecessor of your excellency, as follows: "But, as your excellency knows, the government of the republic has claimed, and in compliance with the order of the Congress of the nation will continue to claim, according to the known limits in the right of nations and international practices, against the awards of the mixed commission, through the fraud of the commissioners and of the umpire, who formed the tribunal, and does not doubt that the high powers of the United States of North America, doing to Venezuela the justice to which she has a perfect right, will agree to the nullity and consequent revision of those awards.

"In this view there will not be distribution of the sums that are delivered until the claims to which these accounts should be applied are definitely liquidated and recognized. And I have the express order of the President, taking this opportunity to make, in the name of my government, formal protest, in order to prevent all responsibility of the republic, against whatever distribution may have been made heretofore among individuals who have not been and who are not lawful creditors of Venezuela of the sums that have been received from her for application to the payment of just debts."

In accordance with said notes will be found those of August 13, September 4, and November 18 of said year 1873. And as the state of the question to-day is the same as at that time, your excellency will see that the circumstances and motives have not changed, which impelled the government of the republic to take even to its own sorrow that determination.

Consequently the undersigned has received the order of His Excellency the President to inform his excellency the minister that for the reasons expressed in the notes to which he has alluded, the government of the undersigned can do no less than insist that payment may be made to the legation if it accepts the condition; that the amount so received be not distributed while it is not ascertained, by virtue of the revision demanded, what Venezuela justly owes to the citizens of North America.

The undersigned takes occasion to renew to his excellency the protest of his high consideration.

JESUS M. BLANCO.

To the Hon. MINISTER RESIDENT of the United States of North America.

No. 685.

Mr. Fish to Mr. Russell.

No. 50.]

DEPARTMENT OF STATE,

Washington, June 4, 1875.

SIR: Mr. Dalla Costa, the Venezuelan minister, called upon me on the 27th ultimo, and it may be important that you be advised of the purport of the conversation.

* * * * *

He then said that President Blanco was very much disturbed by the language of the President's messages to Congress on the subject of the claims against Venezuela.

I expressed surprise, as the language of the President had, in my

opinion, been very moderate considering the conduct of Venezuela; and that unless a different course was pursued by Venezuela, I thought he might expect much more decided language, if not anticipated by action on the part of the President before the next Congress should adjourn. That the United States felt deeply aggrieved by the course of Venezuela in refusing compliance with the obligations of the treaty, and with the awards of the arbitrators to which the claims had been solemnly referred. That we had now waited some seven years, and have been met by vague promises, and still more vague allegations of corruption on the part of individuals, and by an entire disregard by Venezuela of the terms of the treaty.

That if a state, after having submitted a controversy regarding claims and debts due to individuals, to arbitration, whether by another state or by a commission, refuses to pay the award, it loses credit and leaves no alternative with other powers than that of refusing intercourse, or of an ultimate resort to war.

I complained that Venezuela was now withholding the payment of the pitiful percentage which she professes to lay aside for the payment of the treaty-pledge, and is endeavoring to prescribe a condition to the United States as to the disposition which the United States should make of the money.

I told him that this is an objectionable, if not an offensive, procedure; and that our minister in Venezuela had been instructed to make a demand for the immediate and unconditional payment of the amount thus held; and that unless Venezuela should make payment, he must not be surprised to find intercourse with Venezuela broken off and a recommendation to Congress for decided measures to secure what the treaty calls for.

He again referred to the charges of corruption on the part of some of the officers of the commission, and says that Mr. Talmadge, the commissioner, held a power of attorney from some of the claimants; and that Mr. Stilwell, who was minister of the United States at the time, had received \$100,000 of the certificates of awards, which he thought was conclusive evidence of fraud.

I put to him the case that, were he going to some South American or other remote state, as judge or umpire to decide upon claims, if I had claims on which he would have to pass, I would be very glad to place with him the authority to receive the proceeds of the awards on my claims with the confidence that they would be speedily and faithfully accounted for to me; that I would give this power not knowing other parties in the country; that it would not be done to affect his judgment, and doubtless would not affect his judgment, and would not be productive of pecuniary gain to him, and that it was quite consistent with integrity of character and of conduct that the minister, (Stilwell,) should have become the depositary of very many certificates of awards.

* * * * *

He stated that Venezuela now had about \$50,000, and that, with the amount already paid, that would more than satisfy the honest claims. I repudiated this suggestion, insisting that if the \$50,000 were paid it would make, with the previous payments, only about two years' interest on the awards; that the payments already made amount to about one hundred thousand dollars, whereas the claims admitted by the Venezuelan commission (and awarded without the intervention of the umpire) amounted to upward of \$450,000.

I called to his attention the act of Congress, which declares the award final, and told him that on no consideration would we go behind it or reconsider any individual claim which had been awarded.

I further stated that it was now some seven or eight years since the award was made; that the interest upon the admitted claims would largely exceed the amount claimed; and, in conclusion, I expressed the strong hope that his government would see both the justice and wisdom of adjusting these claims, as well as others which had been diplomatically recognized.

Mr. Dalla Costa again called on the 3d instant, and asked whether, when Mr. Munoz Castro had failed to furnish the evidence of alleged fraud in the awards under the claims treaty within the allowed time, we had considered the question closed. I told him that we had always regarded the subject as closed by the award of the commission, and that the consent to receive proof of fraud had been a matter of grace, and although the time allowed Mr. Castro had passed without the production of any proof, I was not prepared to say we would not have received and considered it subsequently; but not a scintilla of evidence or of anything approaching thereto had been offered.

He said that the government of Venezuela had probably labored under a mistake in supposing that the question was still open; that they were encouraged in this opinion by the representations of former ministers in Venezuela—he named Culver, Turpin, Pile, and Pruy; also, that his government laid great stress on the fact that Talmadge, the commissioner, had a power of attorney from one of the claimants; and he referred to my having said to him last Thursday that the acceptance by the commissioners of a power of attorney to receive the amount of an award was by no means an evidence of fraud, and asked whether he correctly understood me. I replied that he did, and that a party against whose claim a commissioner had decided might have given such a power, and the fact of the decision would be the strongest answer against any influence exercised by the possession of the power.

He said that that is exactly the case; that they have possession of a power given by a Mr. Murray to Talmadge for a claim of \$400,000, which had been rejected.

He said his government looked upon it as conclusive evidence of fraud, and were thereby led into their present position.

He further asked whether, in case he wrote me a note and inclosed this power, I would reply to that effect. I declined saying whether I would or would not. I said he had a perfect right to address me a courteous note on the subject, and that I reserved the decision of my answer until I received this note.

I said that Mr. Castro had written a very offensive note, and that President Blanco had on more than one occasion been guilty of language about the President of the United States and the present Government that * * * , and I would, therefore, enter into no assurances as to the future.

He said that his government seemed to think that he had not presented their case efficiently, and also that there is yet hope for revision.

I reminded him of the repeated assurances given by our representative to Venezuela, and by myself to him, that the question was closed, and that the resolution of Congress on the subject precluded any further negotiation, which he said he understood, but his government still hoped; and I advised him to disabuse them of the idea as soon as possible, and to recommend a speedy adjustment, as our patience is about exhausted, and that we were not inclined to patiently receive any more of the abusive language of * * *

I am, &c.,

HAMILTON FISH.

No. 686.

Mr. Fish to Mr. Russell.

No. 51.]

DEPARTMENT OF STATE,
Washington, June 7, 1875.

SIR: Your dispatch, No. 64, of the 5th ultimo has been received.

In view of the instruction which has been given you to demand payment of the sum alleged to have been deposited by the Venezuelan government to the credit of the United States, it is supposed that no special instruction may at this juncture be required with reference to that paragraph of President Blanco's message which relates to that deposit. If occasion should offer, however, you will give that government distinctly to understand that any such review of the proceedings of the joint commission on claims, as appears to be expected, will never be consented to by this. Such a concession would, it is believed, not only be unprecedented, but would be a measure unwise in itself and of bad omen and influence for all governments, including that of Venezuela.

I am, &c.,

HAMILTON FISH.

No. 687.

Mr. Russell to Mr. Fish.

No. 78.]

LEGATION OF THE UNITED STATES,
Caracas, June 19, 1875. (Received July 12.)

SIR: I have the honor to inclose herewith a letter from the minister of foreign relations, and a translation thereof. By the same steamer I shall send, to be mailed in New York, a sealed packet accompanying the same and referred to therein.

Together with some of my colleagues, I felt some doubt about the propriety of acting as a messenger to send a sealed inclosure, said to contain a claim against a friendly and allied state. But as the other national representatives decided to comply with the request of Venezuela, I have done the same, intimating to the minister of foreign relations that I could of course express no opinion to my Government as to a document which I had not been permitted to read. I also sent a copy of the note inclosed to the Dutch chargé, telling him that I thought such notice due to him as representing a government which had always been a steadfast friend of the United States, and protesting that I could not be considered as giving any opinion as to the character of the unknown inclosure. His reply was cordial. He had received no communication on the subject from this government, nor does he know, except from this correspondence, that any claim has been made on his government.

I have, &c.,

THOMAS RUSSELL.

[Inclosure in No. 78.—Translation]

Mr. Blanco to Mr. Russell.

Caracas, June 14, 1875.

The government of Venezuela has appealed to the King of the Netherlands, claiming indemnity for the expenses which it was obliged to incur to re-establish peace,

disturbed in the republic by the last rebellion, promoted, organized, and sustained by Dutch subjects, living in the Island of Curaçao, and asking, moreover, that His Majesty of the Netherlands will be pleased to direct measures to prevent the tranquility of this country, in which citizens and foreigners have an interest, from being at the mercy of some few speculators of that colony. But notwithstanding the confidence which His Excellency the President has in the justice of the demand, and in the intelligence, impartiality and rectitude of the government of His Excellency the King of the Netherlands, he has thought fit to apply to the friendly governments, soliciting their good and friendly offices in the action intended, and to that end this ministry appeals to the State Department of the United States of North America.

The brief which I have the honor of sending to your excellency contains the above-mentioned request, joined with a memorandum or recapitulation of the facts and reasons on which the claim is founded, and I ask your excellency that you will be pleased to send said sheet to the Government of the North America N. Union.

Presenting thanks to your excellency in advance very warmly, I have the honor to repeat to your excellency the assurances of my high consideration.

JESUS M. BLANCO.

The Hon. THOMAS RUSSELL,
Minister Resident of the United States of North America.

No. 688.

Mr. Russell to Mr. Fish.

No. 79.]

LEGATION OF THE UNITED STATES,
Caracas, June 19, 1875. (Received July 12.)

SIR: I have the honor to report some facts as to the earthquake of May 18, although the details may be better known in the United States than here. It is hard to get trustworthy accounts, and I have asked in vain for official statements. But there is no doubt that San José de Cuenta, in Colombia, and San Cristobal, in Venezuela, were wholly destroyed, with at least ten smaller towns. Other places were injured but not destroyed. The loss of life at Cuenta is estimated at 3,000. Probably an equal number have perished elsewhere. The number of the maimed is fearful. Much disease has resulted from the decay of the dead bodies. Scenes of violence and robbery followed the earthquake, but order has been restored by the shooting of a large number of the criminals. It is needless to say that the suffering which comes from this disaster is wide-spread and will continue long. The news was received here on June 7, and prompt measures of relief were taken. The President at once sent \$5,000 for the Venezuelan sufferers and a like sum for the Colombians; and he headed a subscription, which has produced a large amount.

One effect of this calamity will be to check for the present all rebellious movements in the disaffected States of the Cordilleras where it occurred, and in Zulia, where the pecuniary loss is great. Trusting probably to this, government has released several political prisoners. A recent revolt at San Carlos Maracaibo was only a soldiers' mutiny, and of no political significance. I inclose a copy of an unofficial letter to the minister of foreign relations on the earthquake, with his reply, and also a translation of his reply.

I have, &c.,

THOMAS RUSSELL.

[Inclosure 1 in No. 79.]

*Unofficial letter from Mr. Russell to Mr. Blanco.*UNITED STATES LEGATION, *June 14, 1875.*

DEAR SIR: I wish to express to your excellency, and through your excellency to your government, the deep regret and sympathy with which I have learned the terrible calamity that has befallen so many of the inhabitants of Tachira, as well as their neighbors of Colombia. This sympathy will be felt by the people whose Government I have the honor to represent as it was felt in days past for the distress of Caracas. They will grieve for the lost and suffering at Tachira and Santander as for brothers. The bereaved survivors of this great disaster may be assured that the heart of the world beats for their affliction. I am glad that prompt and generous measures have been taken by the President to alleviate the misery that must follow such a calamity. Your excellency will do me a favor by sending in time for the next mail any special facts that government may have as to details of this catastrophe, so that my letters may be full, more authentic, and to some extent official.

Repeating my assurances of regret, I need not renew my assurances of high consideration.

THOMAS RUSSELL.

[Inclosure 2 in No. 79.—Translation.]

*Mr. Blanco to Mr. Russell.*CARACAS, *June 17, 1875.*

His Excellency the President of the Republic has been informed of letter of the 14th, in which your excellency is pleased to express in terms as cordial as expressive has been caused to your excellency, and which will be caused to the people whose Government your excellency worthily represents, by the terrible catastrophe which has sunk in desolation and ruins the towns of Tachira and Santander; and His Excellency has directed me to express to your excellency that he acknowledges and esteems highly the noble sentiments with which your excellency shows your interest in the fate of those unhappy people whom the weight of this misfortune oppresses.

I shall have the honor to transmit to your excellency the news and details which the government may obtain as to the sad event of May 18, and meantime it is pleasant to me to renew to your excellency the assurance of my high consideration.

JESUS M. BLANCO.

No. 689.

Mr. Russell to Mr. Fish.

No. 80.]

LEGATION OF THE UNITED STATES,
Caracas, June 21, 1875. (Received July 12.)

SIR: I have the honor to inclose a note from the chargé of the Netherlands, received since my No. 78 was written and placed in the hands of the dispatch-bearer; also a translation thereof.

As Mr. Brakel has sent this somewhat elaborate reply to my note, courtesy seems to require me to inclose it. But if the matter should ever become one of serious consideration, there are some important facts which I should desire to lay before the Department. At present, as I have intimated, I do not feel justified in discussing a paper which I have not read.

I have, &c.,

THOMAS RUSSELL.

[Inclosure in No. 80.—Translation.]

Mr. Brakel to Mr. Russell.

CARACAS, June 21, 1875.

SIR AND DEAR COLLEAGUE: I have the honor to acknowledge the reception of the note dated the 17th of this month, by which you have been pleased to communicate to me that you have received from the minister of foreign relations at Venezuela the circular of the 14th, asking you to transmit to your Government a sealed letter relating to a claim against the Netherlands for the expenses of the last rebellion, a letter which contained a memorandum of reasons on which this claim is founded, as well as an appeal to the good offices of the friendly governments. While thanking you warmly for this communication and for the kind words with which you have been pleased to accompany it, I take the liberty to offer you on the subject in question the following suggestions:

The first news of the rebellion at Coro reached the authorities at Curaçoa October 26, 1874, and his excellency the governor, and on the next day the governor prohibited the export of all munitions of war.

It seems that this act of good neighborhood has not been duly appreciated.

As for the proofs of facts brought forward, they consist chiefly of declarations, not sworn to, of persons mostly Venezuelans, made before the authorities of this nation, without the presence of any Netherlands authority.

The worth of these.

I am sure that if the government of Venezuela had acceded to the request of the Dutch legation to publish in "the Report of the Minister of Foreign Relations of 1875" the notes which I have had the honor to address to it on this subject, your Government, on reading the memorandum which is presented to it, would be immediately convinced that the attitude of the Dutch government in the conduct of its authorities at Curaçoa during the rebellion in Coro is absolutely irreproachable.

Further, an impartial study of this claim and of the grounds of support will lead, no doubt, to the conclusion that it is without real foundation.

Be pleased to receive, sir and dear colleague, the fresh assurances of my high consideration.

BRAKEL.

His Excellency Mr. THOMAS RUSSELL,
Minister Resident of the United States of North America at Venezuela.

No. 690.

Mr. Russell to Mr. Fish.

No. 86.]

LEGATION OF THE UNITED STATES,
Caracas, July 15, 1875. (Received August 2.)

SIR: I have the honor to report that on July 6 I was requested by the minister of foreign affairs to meet him, and that on doing so I found that the President desired to deliver to me the sum on deposit under the award of the mixed commission. He also desired me to make a new demand. * * I assented to the request, stating that I should found my new demand upon the idea, which I entertained, that the force of the act of February 25, 1873, had not been appreciated. I added that if the effect of that law had been properly understood Venezuela would not have argued with the executive power a question that had been settled by the legislature.

The promise was made that I should have the funds in time to remit by the next mail; and I had arranged with Mr. Boulton to purchase a large amount of drafts on London for that purpose. The minister of foreign affairs, however, called to-day to say that, owing to his engagements he was not able to complete his letter in time for the New York steamers. I requested him to say this in a letter, and he sent a note, which I inclose herewith with a translation. I shall, of course, receive no conditional payment.

The interview of July 6 had been preceded by several unofficial ones, with persons intimate with President Guzman, in which I had anticipated the instructions of No. 51, received this day, and had declared my firm belief that the United States Government would insist on its demand, and would be sustained by Congress and the people. These interviews being sought by the President's friends gave me an opportunity to express, with great freedom, my views as to the course of Venezuela.

I have, &c.,

THOMAS RUSSELL.

[Inclosure 1 in No. 86.]

Mr. Russell to Señor Blanco.

UNITED STATES LEGATION, *July 7, 1875.*

SIR: Upon reading anew your excellency's note of June 11, in which you argue against the payment of the amount deposited on account of the United States claimants, and ask that the note may be transmitted to the President of the United States, it occurs to me that I ought to lay before your excellency and your government the act of Congress of February 25, 1873, which is as follows: "Be it enacted, &c., that the adjudication of claims by the convention with Venezuela of April 5, 1865, pursuant to the terms of said convention, is hereby recognized as final and conclusive, and to be held valid and subsisting against the republic of Venezuela."

Your excellency will see that the Executive of the United States is bound to consider the awards as obligatory and final, while this law remains in force. The President cannot set aside and annul, or even suspend, what the legislature has enacted into law.

It has seemed to me that the force of this law, not "resolution," has not been appreciated.

I am convinced that upon consideration it will be seen that while the law remains upon the statute-book the Executive of the United States only performs a plain duty in demanding the money, which is now deposited on account of the North American claimants, under the awards of the commission; and in my view the compliance with the demand to make payment, in no way adds to nor takes from the respective rights of either nation in the matter.

I must be allowed, therefore, to renew the demand contained in my letter of May 15, and I take this occasion to renew to your excellency my assurances of distinguished consideration.

THOMAS RUSSELL.

His Excellency Hon. Dr. JESUS MARIE BLANCO,
Minister of Foreign Relations.

[Unofficial.]

[Inclosure 2 in No. 86.—Translation.]

Señor Blanco to Mr. Russell.

CARACAS, *July 15, 1875.*

I am occupied in the preparation* of the note of your excellency of the 7th. The arrival of the New York steamer, and her immediate departure to-morrow, will not leave me the necessary time so that your excellency may receive it in season for this occasion, for your excellency knows that I am charged with two departments of business; but as I desire that you should know it, I can tell you that the funds deposited and those which fall due in future will be delivered to the legation with the security of the rights of Venezuela.

With sentiments of consideration, I am your excellency's obedient servant,

JESUS MA. BLANCO.

To His Excellency Mr. Thomas Russell, &c., &c.

* Probably the words "de la contestacion" of the answer are omitted from the letter, which was written in haste.

No. 691.

Mr. Russell to Mr. Fish.

No. 87.]

LEGATION OF THE UNITED STATES,
Caracas, July 26, 1875. (Received August 24.)

SIR: I have the honor to inclose a copy of a note received July 17, from Dr. Blanco, with a translation. It places at my disposal the funds deposited for United States claimants under the awards of the mixed commission, and offers monthly payments in future. On the same day I had the funds transferred to my account as minister, and I send bills on London for the full amount, 64,308 venezolanos, £12,366 18s. 6d., by this mail. No. 88 contains, with the bills, a full account of them.

My reply to Dr. Blanco's note was as follows :

LEGATION OF THE UNITED STATES, *July 21, 1875.*

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 17th, answering my note of the 7th, placing at my disposal the funds deposited with the Company of Credit, on account of United States claimants under the awards of the joint commission, and promising monthly payments in future. I received this decision with pleasure, and am confident that such right action on the part of the enlightened government of Venezuela will have due effect in preserving the proper relations between the two countries.

To prevent all misunderstanding, permit me to state that I regard this as the unconditional payment which I was instructed to ask. The United States receiving these amounts on account of the awards is perfectly free to dispose of the money received, in any way and at any time that seems right to that government, subject only to its own sense of justice. This statement is not necessary for your excellency, nor for his excellency the President of the United States of Venezuela. But it is made from abundant caution, to prevent misapprehension by others at any future time. I have further to say, that on July 15 I received a dispatch from the honorable Secretary of State of the United States of America, in which I am directed to make it distinctly known, when occasion arises, that the Government of the United States of America will never consent to any revision of the proceedings of the joint commission, with a view to set aside their decisions, believing that such a concession would be not only unprecedented, but unwise in itself, and of bad omen and influence for all governments, including that of Venezuela.

I take pleasure in renewing to your excellency my assurances, &c., &c.

THOMAS RUSSELL.

His Excellency Hon. Dr. JESUS MA. BLANCO,
Minister of Foreign Relations.

I have, &c., &c.,

THOMAS RUSSELL.

[Inclosure 1 in No. 87.—Translation.]

*Dr. Blanco to Mr. Russell.*CARACAS, *July 17, 1875.*

The undersigned, minister of foreign relations, has had the honor of receiving the note dated the 7th of this month, in which Hon. Mr. Russell, minister resident of the United States of North America, repeats his demand that the amount may be delivered to the legation which is deposited with the company of credit on account of what the republic owes to North American citizens. The honorable minister is pleased to express as the foundation of his demand that the Executive of the United States of North America is bound to consider as binding the awards of the mixed commission while the law of February 25, 1873, remains in force, which recognizes and declares them valid and subsisting, and that therefore he only performs a simple duty in demanding the money that is on deposit on account of said awards, adding that the act of agreeing to the payment neither adds to nor takes from the rights which the two nations respectively have. His Excellency the President of the union, being possessed

of the contents of said note, has ordered the undersigned to answer the honorable minister as follows: In compliance with a decree of the Congress of Venezuela, and convinced, morally and legally, that the most scandalous corruption was the moving power of the commissioners and of the umpire who formed the tribunal created by the treaty of April 25, 1866, the national executive has claimed and will continue to claim the nullity of its acts, and cannot but hope that the enlightened North American Government, in view of the mass of proofs which show the fraud of the judges, will agree that their decisions are not binding, and [consequently] on the consequent revision of the claims. As the justice of the demand of Venezuela is evident, and founded thereon her confidence in obtaining it, His Excellency the President has judged and judges that the anticipated distribution of the whole sum applied to the payment of legitimate dues of North American citizens will favor, with injury to them, the false claimants leagued against the treasury of the republic, and the very swindlers who shared more than half of the awards made. For this reason, in announcing to the respective legations their quota of the customs-revenue set apart for foreign claims, he established the condition that the amount coming to the North American legation on account of what Venezuela should turn out to owe finally to citizens of that republic should not be distributed, and said condition not having been accepted, the government ordered the deposit, on which it has insisted with many solid reasons. But official communications from the minister plenipotentiary of Venezuela in Washington, of the dates of May 30 and June 21, just received, have persuaded His Excellency the President that through wrong understanding of the true causes, the non-delivery of the money deposited influences, to a certain point, the North American Government not to give attention to the chief matter submitted to its consideration, and as His Excellency desires that every motive may disappear which in any way can paralyze the comprehension and decision of the question of right, and His Excellency wishes, moreover, to give a new proof that it is not the magnitude of the awards, still less the wish to elude the performance of any agreement, but the honor and dignity of the republic, which is the consideration that has operated on the mind of his government in asking the nullity of the tribunal which made the decisions, has resolved to place at the disposition of the North American legation the amount which the company of credit holds on deposit, as also that there shall be delivered monthly, through the treasury of the public service, the amount which the note of July 29, 1873, sets forth, in which is made known to the legation the share which belongs to it, in the *pro rata* of 13 per hundred applied to foreign claims. The undersigned must add that his government agrees to make, and will continue making, said payments without giving up its rights, which it expressly reserves, to continue its efforts for the nullity of the tribunal guilty of fraud, and under formal protest against the distribution of the funds, His Excellency the President does not doubt, but rather hopes, that the honorable minister, penetrated by the right action and sincerity of the government of Venezuela, will use his merited influence to effect that his Government will please to undertake to consider the proofs on which the republic finds its unquestionable right to ask, as it has asked, that the nullity of the tribunal and the revision of its decrees may be ordered.

The undersigned takes occasion, &c.

JESUS MABLANCO.

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ERRATA.

- Pages 762 and 763 *passim*, for "Garribaldi" read "Garibaldi."
Page 844, forty-seventh line, for "*deposite*" read "*deposito*."
Page 946, date of Mr. Foster's dispatch, No. 313, for "July 12" read "July 2."
Page 973, last line, for "Neuvo" read "Nuevo."
Page 1070, twentieth line, for "No. —" read "No. 512."
Page 1217, thirty-ninth line, for "Nos. 16, 17, 18, and 19" read "pages 1153-1213."
Page 1251, twenty-third line, for "CUSHIN" read "CUSHING."
Page 1366, thirteenth line, for "Maricaibo" read "Maracaibo."
Page 1370, twelfth line, for "inmigrodo" read "inmigrado."
Page 1371, twenty-fourth line, for "cuanlos" read "cuantos."
On same page, twenty-fifth line, for "su han recibido" read "si han recibido."
On same page, twenty-sixth line, for "los" read "las."
Page 1384, last line, for "MABLANCO" read "MA. BLANCO."

