CUBA.

INAUGURATION OF PRESIDENT MENOCAL.—PARTICIPATION IN THE CEREMONIES OF A SPECIAL MISSION REPRESENTING THE PRESIDENT OF THE UNITED STATES.

File No. 837.001M52/2.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 14, 1913.

The personnel of the Special Mission to the inauguration of President-elect Menocal is as follows:
Chief of Mission, Arthur M. Beaupré, Envoy Extraordinary and Minister Plenipotentiary of the United States at Habana, as Envoy Extraordinary and Minister Plenipotentiary on Special Mission; General Enoch H. Crowder, Judge Advocate General of the United States Army, as Representative on Special Mission, with rank of Envoy Extraordinary and Minister Plenipotentiary; and Mr. Dudley Field Malone, Third Assistant Secretary of State, as Representative on Special Mission, with rank of Envoy Extraordinary and Minister Plenipotentiary.

The Representatives, accompanied by their Secretary, Mr. Edward Bell, of the Division of Latin-American Affairs of the Department of State, will be conveyed from Key West to Habana on the U. S. S. Prairie.

Make all necessary arrangements for their reception.

BRYAN.

File No. 837.001M52/7.

The Acting Secretary of State to the American Minister.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 15, 1913.

The Legation staff is hereby attached to the Special Mission.

MOORE.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, May 15, 1913.

In the absence of instructions on the subject, Mr. Gibson will go to Key West to confer with the Special Representatives on the details of the mission, to expedite definite arrangements on arrival.

BEAUPRÉ.

333
The Cuban Chargé d’Affaires to the Acting Secretary of State.

[Translation.]

No. 19.

LEGATION OF CUBA,
Washington, May 20, 1913.

Sir: By order of my Government I have the honor of informing you that on this day Major General Mario G. Menocal and Doctor Enrique José Varona, President and Vice President elect of the Republic, respectively, have taken possession of the offices.

The Cabinet is composed of the following:

Doctor Cosme de la Torriente, Secretary of State;
Doctor Cristóbal de la Guardia, Secretary of Justice;
Colonel Aurelio Hevia, Secretary of Gobernación;
Doctor Leopoldo Cancio, Secretary of the Treasury;
Engineer José R. Villalón, Secretary of Public Works;
General Emilio Núñez, Secretary of Agriculture, Commerce and Labor;
Doctor Ezequiel García Enseñat, Secretary of Public Instruction and Fine Arts;
Doctor Enrique Núñez, Secretary of Health and Charities; and
Doctor Rafael Montoro, Secretary of the Presidency.

I avail [etc.]

MANUEL DE LA VEGA.

May 18. Arrived Key West 8 a.m. Met by Captain E. E. Hayden, U. S. N., Commandant of Key West Naval Station, and Mr. Hugh S. Gibson, First Secretary, American Legation, Habana, who had been sent over by Mr. Beaupré to meet the envoys. Arrived Habana 4:30 p.m. Salutes exchanged with Cabaña fortress. Met at ship by the Honorable A. M. Beaupré, United States Minister and Chief of Special Mission; Colonel Slocomb, United States Military Attaché; Mr. F. T. Coxe, Second Secretary, United States Legation; Mr. Patterson, Sub-Secretary of State of Cuba; Senator Coronado, Secretary of Cuban Senate Committee on Foreign Affairs, who came as the personal representative of the President-elect; Mr. J. L. Rodgers, American Consul General; and Señor Carrillo, attached to the Special Mission. Salute of seventeen guns fired as the Special Mission left the ship.

May 19. At 9:45 the Special Mission, attended by staff and attachés, called upon Sr. Sanguily, Secretary of State, and conversed for about twenty minutes. They then repaired by motor to the Finea América, Calabazar, about eighteen miles south of Habana, to call upon President Gómez. Mr. Beaupré, in presenting his colleagues made a short address to President Gómez:
Address of the Special Mission to the retiring President, José M. Gómez, and the reply of President Gómez.

Mr. President: Acting in accordance with the wishes of the President of the United States, we are present today as an evidence of the intimate and friendly interest of the American people and their Government in the welfare and prosperity of Cuba. We take pleasure, therefore, in extending to you the good wishes of the people of the United States and the sincere compliments of their President that you have maintained and are handing over to your successor a Government of law and order and a form of republican government which the people of the United States will be glad to see develop and prevail to the lasting good of the Cuban nation.

President Gómez replied as follows:

Mr. Minister: I am very much gratified to hear from your excellency's lips in your capacity as Chief of the Special Mission sent by the President of the United States of America in courteous reciprocation of that which I had the satisfaction of sending to Washington upon the occasion of a similar event, the gracious remarks which, in expressing the wishes and sentiments of the great citizen who is now the head of the American nation wisely and gloriously to guide its destinies, are the assurance of the noble interest which the people and Government of the United States of America so sincerely feel for the happiness and prosperity of the Cuban nation and the security of its republican institutions.

In transferring within a few hours hence the Presidency of the Republic to my illustrious successor, nothing can be more pleasing to me than the solemn and encouraging remarks which you have just made, and I pray your excellency will convey to President Wilson my grateful appreciation as a Cuban and my sincere wishes for his personal welfare and for the enduring prosperity and greatness of the American nation in the desired and unalterable affection of her other sisters of this hemisphere, for the good of humanity and the glory of civilization.

Mr. Beaupré then introduced his colleagues and staff. Informal conversation followed and finally, champagne being served, President Gómez proposed a toast to the President and people of the United States, their progress, prosperity and peace. Mr. Malone proposed the health of the President of Cuba and the welfare of the Cuban people. The party then returned to Habana.

May 20. At 9:45 the Special Mission and staff, accompanied by Commander Scales of the U. S. S. Prairie, repaired to the Senate Chamber to witness the inauguration of Vice President Varona. Seats were reserved in front row. After this ceremony the Special Mission, staff, etc., went to the Palace, where they were received by President Gómez, and remained in conversation with friends till noon.

The following congratulatory telegram from the President of the United States to the incoming President was received by General Menocal:

The President to the President of Cuba.


Upon this anniversary of the independence of the Cuban nation and the occasion of Your Excellency's inauguration, permit me to add to the message of cordial friendship conveyed by the Ministers of the United States on Special Mission my own sincerest felicitation, and also to extend my best wishes that this Government's sister Republic of Cuba may, under your administration, have great prosperity. Pray accept my own cordial wishes for your continued health and happiness.

WOODROW WILSON.

* File No. 837.001M52/10.  
* File No. 837.001M52/16A.
To this General Menocal replied:

The President of Cuba to the President.¹

[Translation.]

HABANA, May 20, 1913.

It has been for me a special cause of congratulation, after the delivery of the noble message of cordial friendship by the Ministers of the United States on Special Mission, to receive the telegram by which Your Excellency sent me your sincere felicitations and wishes for the success of my administration and the prosperity of Cuba. Profoundly grateful to Your Excellency, I renew to you my sentiments of cordial friendship and my aim to have the ties that bind Cuba to the United States drawn closer and closer.

Accept, Excellency, my sincere wishes for your health and happiness.

Menocal.

At noon General Menocal arrived to take the oath of office. President Gómez made a short speech turning over his office; General Menocal replied, and the oath of office was administered by the Chief Justice of the Supreme Court. President Menocal and General Gómez then repaired to a balcony overlooking Palace Square to receive the acclamations of the crowd. Colonel de la Torriente then took oath as Secretary of State. During the ceremonies the Special Mission and staff occupied a reserved enclosure immediately in front of the dais on which the President, retiring President, Supreme Court, etc., were standing.

On returning from the balcony, President Menocal retired with his Cabinet for a short consultation, after which he returned to the State Room and passed through to the Red Room. He thereupon despatched an aide-de-camp to invite the attendance of the Special Mission of the United States of America. On entering the Red Room, Mr. Beaupré in a few words informed President Menocal of the object of the mission:

Address of the Chief of the Special Mission to the President of Cuba, Mario G. Menocal.

Mr. President: It is my distinguished honor to hand to Your Excellency the letters by which the President of the United States accredits me and my colleagues on special mission near your Government. At the same time I beg to extend to you our sincere congratulations and our good wishes for the welfare of your Government.

My colleague Mr. Malone will deliver to Your Excellency a personal message of congratulation and good will from the President of the United States, whose close friend and representative he is. The terms and significance of this message afford sincere gratification to me and to my colleagues.

He then presented the letter accrediting him and his colleagues:

Letter of credence from the President, accrediting the Special Mission to the President of Cuba.

Great and Good Friend: Desiring to manifest the intimate interest of the United States in the welfare of the Cuban Nation and to emphasize the close and special relationship between the two countries, I have made choice of Arthur M. Beaupré, Envoy Extraordinary and Minister Plenipotentiary of the United States to Cuba, Brigadier General Enoch H. Crowder, Judge Advocate General of the Army, and Dudley Field Malone, Third Assistant Secretary of State, three of our distinguished citizens, as my special representatives, each with the

¹ File No. 887.001/M2/17.
rank of Envoy Extraordinary and Minister Plenipotentiary, on the occasion of the inauguration of Your Excellency to the Chief Magistracy of the Republic of Cuba.

I have entire confidence that they will render themselves acceptable to Your Excellency in the distinguished duty with which I have invested them.

I therefore request Your Excellency to receive them favorably and to accept from them the assurance of the high regard and friendship entertained for Your Excellency and the Government and People of Cuba by the Government and People of the United States, and of my best wishes for your personal welfare and the prosperity of the Republic over which you have been called to preside.

Your Good Friend,

WOODROW WILSON.

By the President:

W. J. BRYAN,
Secretary of State.

WASHINGTON, May 14, 1913.

Mr. Malone then read the President’s greeting, as follows:

Address in behalf of the President, by Mr. Malone, Minister on Special Mission, to the President of Cuba.

MR. PRESIDENT: We congratulate you on this significant occasion, when, following a closely contested election and an orderly and peaceful transfer of power from the party hitherto in control to an opposition party, you come to preside over the destinies of the Cuban people. This orderly transmission of authority is most gratifying and seems to indicate that the Cuban people have successfully undergone one of the severest tests of republican government.

We bring you a cordial message of good will and encouragement in the duties which now fall to you, and we wish to express the hearty sympathy of the American people with every element of good government in Cuba. It is the wish and purpose of the President of the United States and of the Government which he represents to support firm and just government as against all elements of disorder.

As was stated by President Wilson in March last in his declaration of the policy that would be followed by the United States in its relations with its sister republics in the western hemisphere, one of the chief objects of his administration will be to cultivate their friendship, to deserve their confidence, and to promote in every proper and honorable way the interests which are common to our respective countries.

The President earnestly desires the most cordial understanding and cooperation between the United States and Cuba. He believes that such cooperation is possible only when supported at every turn by just government based upon law, upon the consent of the governed, and upon public conscience. He will seek to make these principles and a firm opposition to all arbitrary or irregular force the basis of our mutual intercourse.

The American people are the friends of peace and can have no sympathy with those who seek to seize the power of government in order to advance their personal ambitions. There can be no lasting peace in such circumstances. As friends who prefer the interests of peace and honor, the protection of private rights and respect for the restraints of constitutional provisions, mutual respect must continue to be the foundation of the friendship which exists between us.

The United States has nothing to seek in Cuba except the lasting interest of the people, the security of popular government and the development of such personal and commercial relations between Cuba and the United States as will redound to the profit and advantage of both and interfere with the right and liberties of neither.

In reiterating to you, Mr. President, these friendly assurances of the President of the United States, we desire to emphasize the earnestness and sincerity with which the people and the Government of the United States, as represented by their President, desire that the future of the Cuban nation shall be one of uninterrupted advance toward peace, prosperity and security. Our message is one of cordial friendship and felicitation. May Cuba, under your guidance, rise yet another stage upon her progress towards settled peace, happiness and contentment.
General Menocal replied as follows:

Reply of President Menocal to the Address by the Minister on Special Mission.

[Translation.]

MESSIEURS ENVOYS EXTRAORDINARY AND MINISTERS PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA ON SPECIAL MISSION: It is a high honor to me to receive from the hands of your excellencies the letters of credence by which the President of the United States accredits you on special mission near my Government, and, while expressing my deep appreciation of your sincere congratulations, I pray for your personal well.

In receiving from one of you—from Mr. Malone—the personal message of congratulation and good wishes from the President of the United States, whose close friend and representative he is, I cannot refrain from asking you to inform your President that the terms and significance of his message are the source of the greatest satisfaction to me and to my Government.

It is indeed a source of gratification to all who feel an interest in the future of the Cuban Republic, that, following a closely contested election in which both sides invariably showed profound respect for the laws, the transmission of the party hitherto in control to the party whose candidates triumphed at the polls and which, in cooperation with me, will henceforth govern Cuba, should have been accomplished in a manner so orderly and peaceful. The Cuban people have shown by this impressive act, so satisfactorily carried out a few minutes since, that they have successfully faced one of the most difficult trials of the republican form of government which we enjoy.

The happy fact that all the inhabitants of Cuba, and particularly their political organizations, have contributed to this normal transmission of the powers of government which your excellencies have just witnessed leads us to hope that the hearty sympathy which your excellencies express to me in the name of the American people with every element of good government in Cuba may never need be translated into the necessity for material support of the firm and just government which all Cubans, without distinction of political creed, now hope we may ever enjoy. The remarks which you have just delivered in the name of the United States persuade me and all Cubans, to an even greater degree than ever before, that the nation which so decisively contributed to the birth of the Cuban Republic has not for a single moment wavered in its interest in the welfare of our people.

The relations between the great and small nations of the earth cannot be enduring and cordial save as they are inspired in a common feeling of respect and justice and, principally, a willingness on the part of the strong to help the weak. Hence the great significance for Cuba of the assurance which you give in President Wilson's name that he desires the most cordial cooperation between Cuba and the United States and that he believes that such cooperation is possible only when supported at every turn by just government based upon law, upon the consent of the governed, and upon public confidence, wherefore he will seek to make these principles and a firm opposition to all arbitrary or irregular force the basis of our mutual intercourse.

The purpose of Cuba, and, in her behalf, of my Government this day inaugurated, to maintain the most cordial relations with all the governments of the world necessarily leads her to cultivate by the most honorable and appropriate means the interests which are common to the peoples who inhabit this western hemisphere, destined to such a large share in the great civilization of which we form part. And in order that all may cooperate for the accomplishment of the purposes which President Wilson announced in his statements of last March, it is also indispensable that all shall feel that they are protected in their rights as truly free and independent peoples who while conscious of their rights are equally conscious and mindful of their international obligations. Such are the bases of that mutual respect if it is to endure. This respect fortunately already exists, and I am more than ever confident that President Wilson and I will jointly strive to augment it—he as the head of one of the greatest nations of the earth, and I as the head of one of the smallest, but equal in our common sense of right and duty.

The United States has already given to the world palatable proofs of her great concern in the lasting interest of my people and Government; and therefore President Wilson and I will, I am sure, during the terms of our respective
administrations, find the means of developing, to a greater extent even than now, such personal and commercial relations between Cuba and the United States as will redound to the advantage of both countries and interfere with the rights and liberties of neither people.

I pray your excellencies will undertake to convey to President Wilson and the great and noble American people who did so much for Cuba in her days of greatest woe, along with our compliments, the most profound and cordial assurance of the sincere and loyal friendship of the Cuban people, of their Government, and of myself personally; and that at the same time you will express to President Wilson my best wishes for his personal happiness.

Mr. Beaupré presented his colleagues and staff; complimentary remarks were exchanged, and the Special Mission and staff retired.

At 7.30 p.m. Mr. and Mrs. Beaupré gave a dinner at the Legation in honor of the newly appointed Secretary of State, Colonel de la Torriente. Besides the Special Mission and staff there were present Mrs. Torriente, Mr. Montoro, appointed Presidential Secretary, and Mrs. Montoro, Mr. Patterson, Sub-Secretary of State, and Mrs. Patterson, Doctor Desvernine, of the Cuban Special Mission to the inauguration of the President, and Mr. Rivero, Chief of same and Cuban Minister to Washington.

May 21. At 9 a.m. Mr. Malone repaired to the Caballería wharf to embark. Besides the other members of the Special Mission and staff, Mr. Torriente, Secretary of State, and Mr. Patterson, Sub-Secretary of State, were present to bid him good-by. On arrival on board, Mr. Malone was rendered a Minister's salute.

President Menocal, desirous of expressing in the highest degree his appreciation of the sending of the Special Mission to his inauguration, attached on this day, his first in office, two officers as A. D. C. to the Special Envoys remaining in Habana: Captain de Cárdenas to Mr. Beaupré, Major Silva to General Crowder.

In the evening a gala performance was given at the Opera in honor of President Menocal, which he attended with the members of his family. The audience was large and brilliant and all the Cabinet, most of the diplomatic corps, and a great number of prominent Habanese were present. Two boxes were placed at the disposal of the Special Mission and the entire personnel thereof (except Mr. Malone) attended: Mr. and Mrs. Beaupré; General Crowder; Mr. Bell; Mr. Gibson; Colonel and Mrs. Slocum; Mr. Cox; Major Silva; Captain de Cárdenas; Mr. Carrillo.

May 22. The only official function on this day was a banquet given by the Secretary of State and Señora de la Torriente at the Department of State to the Special Mission. Besides Mr. Beaupré, General Crowder and the staff of the Special Mission there were present the Vice President of Cuba; the retiring Vice President; most of the Cabinet and their wives; the retiring Secretary of State; the Sub-Secretary of State, and several Senators and Deputies; also the Mayor, the Speaker and the ex-Speaker—a thoroughly representative gathering of the most prominent people in official life in Cuba. There were no speeches.

May 23. General Crowder, accompanied by Mr. Bell, left on the P. & O. Mascotte for Key West. Mr. Beaupré and the staff of the Special Mission and the Legation were present to bid farewell to General Crowder, as well as the Secretary and Sub-Secretary of State of Cuba, several other officials, and a number of personal friends.
The Cuban Chargé d'Affaires to the Secretary of State.

[Translation.]

No. 22.]

LEGAION OF CUBA,
Washington, June 3, 1913.

SIR: I have the honor to send you, together with the office copy, the autograph letter which, upon the occasion of his assumption of the functions of the Executive Power, the Honorable General Mario G. Menocal directs to His Excellency the President of the United States, the Honorable Woodrow Wilson.

I beg you to forward it to its high destination, and I avail [etc.]

MANUEL DE LA VEGA.

[Inclosure.]

The President of Cuba to the President.

PALACE OF THE PRESIDENCY,
Habana, May 20, 1913.

GREAT AND GOOD FRIEND: I have the honor to inform Your Excellency that as a result of the general national elections on the first day of November of one thousand nine hundred twelve I was proclaimed on the twenty-first of last April by the Senate and House of Representatives in Congress assembled President of the Republic during the period from one thousand nine hundred thirteen to one thousand nine hundred sixteen.

And having on this day taken the oath required by the Constitution upon assuming the exercise of the Executive Power, I am glad to assure you that from the high post which I have been called to take by the vote of my fellow-citizens, it will be my invariable desire to strengthen the friendly relations that so happily exist between our Countries and Governments.

I earnestly wish prosperity for your Nation and personal-happiness for Your Excellency, of whom, Great and Good Friend, I am.

Your Good Friend,

COSME DE LA TORRIENTE,
Secretary of State.

Mario G. Menocal.

The Secretary of State to the American Minister.

No. 239.]

DEPARTMENT OF STATE,
Washington, June 23, 1913.

SIR: I enclose, with office copy, a letter addressed by the President to His Excellency General Mario G. Menocal, acknowledging his letter of May 20 last in which he announced his election on November 1 last to the Presidency of the Republic of Cuba and his entrance upon the duties of that office.

You will forward the copy to the Foreign Office and deliver the original in the manner most agreeable to His Excellency.

I am [etc.]

For the Secretary of State:

J. B. Moore.
The President to the President of Cuba.

GREAT AND GOOD FRIEND: I have received the letter of the 20th of May last, in which Your Excellency announced your election, on the 1st of November last, to the Presidency of the Republic of Cuba and your entrance upon the duties of the office.

I cordially reciprocate the sentiments you express for the continuance of the friendly relations which have heretofore existed between the United States and Cuba, and I assure Your Excellency of my best wishes for your personal welfare and for the prosperity of the Republic over which you have been called to preside.

Your Good Friend,

By the President:
W. J. BRYAN,
Secretary of State.
WASHINGTON, June 18, 1913.

Woodrow Wilson.

PROPOSAL OF FRANCE, GERMANY AND GREAT BRITAIN TO ARBITRATE WITH CUBA CERTAIN INSURRECTIONARY CLAIMS OF THEIR NATIONALS ARISING PRIOR TO 1898.1

File No. 437.00/46.

The American Minister to the Secretary of State.

No. 612.]

American Legation,
Habana, January 29, 1913.

Sir: Referring to previous correspondence in regard to the so-called insurrectionary claims of British, French and German subjects against the Republic of Cuba, I have the honor to report that President Gómez has addressed a message to Congress in request of authorization to arbitrate these claims. There is little, if any, likelihood of action by Congress during the present session which, if the custom of former years is observed, will adjourn some time next month reconvening the first Monday in April.

I have [etc.]

A. M. Beaufre.

File No. 437.00/47.

No. 654.]

American Legation,
Habana, March 15, 1913.

Sir: Referring to my despatch No. 612, of January 29, 1913, reporting [etc.] I have the honor further to report that bills carrying out the President’s recommendation have been drafted by the committees on Foreign Affairs, and Justice and Codes, and submitted to the House for consideration.

Both bills in effect contemplate authorizing the President of the Republic to enter into an agreement with the powers concerned for submitting to arbitration the principle involved, that is to say, whether the Republic of Cuba is responsible for damages to property of British, German and French subjects alleged to have been

1 Continued from For. Rel. 1012, pp. 276-283.
caused by Cuban revolutionary forces in the war of 1895–98. The bill of the Committee on Foreign Affairs authorizes the Executive to enter into an agreement with the interested powers, in the event that the arbitration is decided against Cuba, for the appointment of a commission to which determination of the individual claims shall be referred. This bill further provides that, after the commission in question shall have completed its labors, its findings shall be submitted to Congress for approval in accordance with the “first transitory provision” of the Constitution. The bill of the Committee on Justice and Codes provides that in the event of a decision unfavorable to Cuba, the Executive shall enter into agreement with the claimant powers for the determination of individual claims by a commission, which agreement shall be “submitted to the Senate for approval in accordance article 47 of the Constitution.” It contains no provision for the ultimate submittal of the findings of this commission to Congress, as does the bill of the Committee on Foreign Affairs.

I have [etc.]

A. M. Beaupré.

File No. 437.00/48.

No. 655.]

AMERICAN LEGATION,
Habana, March 18, 1913.

Sm: Referring to my despatch No. 654 of the 15th instant [etc.], I have the honor to report that at yesterday’s session of the House the bill of the Committee on Foreign Affairs was approved and now goes to the Senate for action.

The text of this bill is as follows:

Article 1. The President of the Republic may enter into an agreement of arbitration with the accredited representatives of the Governments of Germany, England and France, for the purpose of determining whether the Republic of Cuba may be held responsible for damages to property of subjects of those nations alleged to have been caused by the revolutionary forces during the war of 1895–98.

Article 2. In the event that the tribunal of arbitration shall decide against the contention of the Republic of Cuba that the Republic is in no wise liable for the aforesaid damages, the President of the Republic is hereby authorized to enter into an agreement with the Governments of Germany, England and France for the formation of a commission to consider and pass upon claims filed in due time and form by subjects of those nations; the findings of which commission shall be duly submitted to the consideration and approval of the Congress of the Republic in conformity with the terms of the first transitory provision of the Constitution.

I have [etc.]

A. M. Beaupré.

File No. 437.00/49.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, March 27, 1913.

The Cuban Senate yesterday approved House arbitration bill quoted in my No. 655 of March 18.

Beaupré.
The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 17, 1913.

This Government cordially approves the measures pending in the Cuban Congress designed to create boards for the arbitration of claims of European citizens against Cuba. We are informed that the former administration indorsed similar bills and we are in harmony with the principle of arbitration. You will make a statement in the above sense to the Cuban Government.

BRYAN.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, May 31, 1913.

The Senate yesterday passed the bill authorizing the President to conclude an agreement for arbitrating prima facie French, British and German claims.

BEAUPRÉ.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 5, 1913.

Regarding the Department's telegram of May 17 concerning arbitration of claims, say to the President that it should not be construed as an insistence upon immediate action, as we recognize that the new administration has not had time to investigate, although it is taken for granted that the matter will be taken up by the President as soon as other duties permit, and we shall be pleased to hear from him if any reason against provision for arbitration should exist.

BRYAN.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, June 6, 1913.

The President today expressed satisfaction with the Department's telegram of June 5 and desires me to say that his Government is according the arbitration claims question more serious attention than to any other pending matter.
Before this interview the Secretary of State had addressed to the French Minister a note thoroughly in harmony with your views, adding that the question was being studied and a statement of the new administration's position would be made with no unnecessary delay.

Beaupré.

File No. 437.00/00.

The Legation of Cuba to the Department of State.

[Memorandum, without date—Not a translation.]

Legación de Cuba,
Washington, D. C.

Memorandum.

In reference to the interview held yesterday between the Honorable Secretary of State of the United States and the appointed Minister of Cuba, the reasons are hereafter stated on which the Government of Cuba objects to submit to arbitration the claims presented jointly by the Governments of Great Britain, Germany and France for damages alleged to have been caused to properties belonging respectively to the subjects of those nations, by Cuban revolutionary forces during the war for independence:

First. Because recourse to arbitration can be advised only whenever there shall be apparent grounds for differences of opinion on the subject at issue, and not when the facts are so clear and such as make it reasonably impossible to differ in opinion on the question.

Second. Because in the case of the above-mentioned claims, the facts are so clear that they exclude all possibility of any differences of opinion as to the conclusions to be inferred from them.

Third. The facts are:

(a) That the Cuban forces which are alleged to have caused the damages were not granted belligerent rights either by Spain, Great Britain, Germany or France.

(b) That the war for independence was followed, after the war of the United States against Spain, by a treaty of peace made in Paris between commissioners representing only the Government of Spain and that of the United States, no participation therein having been given to the Cuban Revolutionary Government.

(c) That pursuant to that treaty an American Military Government was established in Cuba, which lasted until the 20th of May of 1902.

(d) That the Constitution was framed by a Cuban Convention called together by the American Military Government in Cuba, and the United States approved the Constitution thus framed, and ordered that a republic be established under it.

(e) That the Republic of Cuba was recognized by all the foreign Powers, as established and regulated by the Constitution, against the provisions of which they made no protest.
(f) That the Constitution provides in one of its transitory provisions, that the Republic of Cuba did not recognize any debt of liability except that legitimately incurred for the benefit of the revolution by the Chiefs of Corps of the Liberating Army, after the 24th of February, 1898, and prior to the 19th of September of the same year, on which date the Constitution of Jimaguayú was promulgated, and the debts and liabilities subsequently incurred by the Revolutionary Government or its legitimate representatives abroad. Congress will determine said debts and liabilities, and resolve accordingly for the payment of those that are legitimate.

(g) The properties for the damages of which the claims are made, were properties held and operated under the rule of the Spanish Government, to which taxes were to be paid according to law, and the products or crops of which were sent to and sold in Spanish cities, and accordingly those properties were under the control of the enemy, and served their interests.

(h) The principle of international law was announced by the Spanish Treaty Claims Commission (Principles 7th and 8th), and many other precedents and authorities, pursuant to which the property of alien residents like that of subjects or citizens of the country, when in the track of war is subject to war casualties, and whatever in front of the advancing forces either impedes them or might give them aid when appropriated, or if left unmolested in their rear might afford aid and comfort to the enemy, may be taken or destroyed by the armies of either of the belligerents; and no liability whatever is understood to attach to the government of the country whose flag that army bears, and whose battles it may be fighting because the destruction of property in war, where a military end is served, is legitimate.

(i) The Cuban military forces were not responsible belligerents at the time when the injuries to the properties were effected, and they could not be held responsible subsequently for acts for which they were not accountable when they were executed, and much less can the Republic of Cuba be held liable if it is borne in mind that it came to life as late thereafter as the 20th of May of 1902.

(j) The present Government of the Republic of Cuba is legally unable to assert to arbitration of the above-mentioned claims, because it would infringe the constitutional provision whereby the liabilities of Cuba are limited to the debts expressly mentioned in the Constitution.

(k) The claims now before the Cuban Government were originally filed with the Government of Spain, which was held then by the Powers now pressing the claims as alone responsible for them.

(l) Article 7 of the Treaty of Paris relieves Spain of her liability for all damages caused to American citizens arising during the insurrection, the fact being that Spain did not disclaim her original liability for all those damages.
The contention of the claimant nations that the former President of Cuba has committed himself regarding the arbitration of the claims cannot be sustained on legal grounds, for the reason that, even admitting for the sake of the argument that such has been the case, it would not bind the present Government or any government whatever; because, first, such arbitration is inconsistent with the above-mentioned provisions of the Constitution of Cuba, against which no government can go, and which are certainly well known by the claiming Powers; and, second, in such matters the present administration of Cuba is not concluded [sic] by the acts of its predecessor.

A bill was introduced, some time ago, in the Congress of Cuba, providing for submission to some kind of arbitration, of the claims which Great Britain, Germany and France have filed with the Cuban Government, for damages done to the properties belonging to citizens of those nations by the forces of the Cuban Revolution for Independence.

The bill has not ultimately passed, and accordingly has not become a law, so that now the President of Cuba is the one called upon to decide the future course that the Cuban Government should adopt in regard to those claims.

Confidential advices from the Secretary of State of Cuba suggest, though only tentatively, that the best course to pursue is to undertake, first of all, a close examination of each and every one of the claims, so as to determine: first, whether the claimants are really of English, German or French nationality; second, whether their claims are such as may be judged of and approved by Congress pursuant to the first Transient Provision of the Constitution of Cuba; third, whether the titles of the claimants to the properties are good titles pursuant to Cuban law.

If the result of this examination should be, as it will most probably be the case, that some or many of the claims are not such as may be covered by the above-mentioned Transient Provision of the Constitution, the Government of Cuba will have to contend that it cannot assent to an acknowledgment and payment of those claims, and the European Governments will, on the other side, argue that Cuba must pay those claims, there arising accordingly a conflict of views between the Governments of the three claiming Powers and the Government of Cuba, and then will be the opportunity to consider whether the question at issue should be submitted to arbitration.

What the arbitrators would have to decide upon, would be whether in view that the Constitution of Cuba does not permit the payment of that class of claims, and in view that the only Cuban Government recognized by the above-mentioned Powers has been the Constitutional Government of Cuba as it was established when Cuba was constituted as an independent Power on the 20th of May of 1902, which Government cannot violate its own Constitution, and in view that the same Powers did never grant belligerent rights to the Cuban Revolutionists, and, on the contrary, accepted the assertion constantly made by Spain that there was no state of war in Cuba but only an uprising of a few or many rebel subjects of the Government of Spain, to which accordingly they favored with sales of arms and ammunition—whether in view of all this the above-mentioned Powers are justified in pre-
senting now those claims for acts which took place before the advent and birth of the Cuban Republic which was established with its present status pursuant to a law of the Congress of the United States and by order of the President of the same country, who, in his letter of May 10th, 1902, and dated in Washington and addressed to the President and Congress of the Republic of Cuba, said: “On the 20th of the present month the Military Government of Cuba, complying with my instructions, will turn over to you the command and government of the Island of Cuba, so that you may thereafter exercise said command and government pursuant to the provisions of the Constitution approved by your Constitutional Convention, and as promulgated on that day, and he will at that moment declare that the occupation of Cuba by the United States has come to an end.”

In case that the award of the arbitrators should be against Cuba, then and only then will the time come to consider and decide as to the appointment of a commission which may consist of one arbitrator for us and another for the three Powers, with a president appointed by a friendly Government not interested in any of the points submitted, which commission shall decide the cases in which Cuba should pay and the amounts to be paid, according, of course, to the principles of international law, but provided that the claims or that part thereof as may arise from damages caused in the course of or as a result of military operations or by the necessities of war or caused in properties of claimants who may have sided with the Spanish Government or given it any aid as, for instance, paying taxes to same or the like, shall be rejected.

File No. 437.00/60.

The Department of State to the Legation of Cuba.

[Memorandum handed to the Cuban Minister on July 12, 1913.]

DEPARTMENT OF STATE,
Washington. (Not dated.)

MEMORANDUM.

The desire of the Cuban Government for full information as to the ownership and nature of the claims which the foreign Powers desire to arbitrate seems to be altogether reasonable. It is doubtful, however, whether either in the preliminary examination of the claims by the Cuban Government or in their subsequent arbitration, if one should be agreed upon, the First Transient Provision of the Constitution of Cuba would play an important part. For so thinking there are two reasons. The first of these is that a government is not permitted to set up, as a final answer to demands for the performance of international obligations, provisions of its municipal law, either constitutional or statutory. This principle has been clearly established on many occasions, and very notably in the settlement of the so-called Alabama claims by means of the award of the Geneva Tribunal. In the second place, it is by no means clear that the First Transient Provision forbids the Cuban Government to recognize claims not therein
mentioned. The language of the provision is that the Republic of Cuba "does not recognize" any other debts or obligations than those therein mentioned, and that the Cuban Congress "shall examine said debts and obligations and decide upon the payment of those which are found legitimate." The debts and obligations thus referred to are those "legitimately contracted in favor of the revolution" by commanders of the liberating army before September 19, 1895, and by the revolutionary government after that date. These words indicate that the object of the first transient provision was primarily to recognize and provide for the payment of a certain class of claims. It gave no recognition to other claims; but, in view of the principle above mentioned, it can scarcely be construed as having been intended to forbid the Cuban Government to recognize claims for which it might be liable under international law.

It may be doubted whether, as a matter of practical procedure, it would be desirable to have two processes of arbitration, one for the purpose of determining general questions of liability under international law and the other for the purpose of passing upon the actual claims. There is, however, something to be said in favor of such a course; and, if it should be thought best to adopt it, the immediate submission to arbitration of some or all of points (a) to (m) of the first memorandum of the Cuban Legation would seem to be a logical step. But it is conceivable that practical considerations may lead the Cuban Government to desire first to make a preliminary examination of the actual claims.

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The Cuban Secretary of State to the French Minister to Cuba.

[Translation by the Cuban Legation, left by the Cuban Minister at the Department of State.]

FOREIGN OFFICE,

Habana, August 18, 1913.

Mr. MINISTER: Pursuant to what was stated in my note of the 5th of June last, I hasten to inform your excellency of which is the view of the President of the Republic and its Government, in the matter of the claims of some English, German and French citizens for acts that took place during the war for the independence of Cuba, and of the best plan to be followed in order to reach a final decision of the questions arising out of those claims, which will be the means of strengthening, still more than they are at present, the good relations which happily exist between the Cuban Republic and the three claiming Powers ever since the former came into national life on the 20th of May, 1902, and its Constitutional Government was recognized, for the first time, by the three Powers.

Neither the first Government of the Republic of Cuba which was presided over by Señor Estrada Palma—to which in 1903 it was made known that there were French, English and German nationals who believed themselves entitled to file specific pecuniary claims arising out of the war of independence against Spain, notwithstanding that

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1 This note was also sent to the Ministers of Germany and Great Britain.

2 See Mr. Bcaupré's telegram of June 6, second paragraph.
their respective Governments did never grant belligerent rights to the Revolutionary Government, and for which reason those nationals could never be entitled to consideration as neutrals in that struggle, not only because they always maintained their allegiance to the Government of Spain and paid taxes to it, helping said Government to defray the expenses of the war, but also because Spain had always facilities of all kinds and of which the revolutionists were deprived of, to obtain loans, arms and ammunition and vessels in England, Germany and France, which Spain made use of in order to wage a war of extermination against the Cuban patriots—neither that first Government ever requested that the claims should be presented in due form, so as to be able to examine them, and find out in what they consisted, and separating and classifying them, neither did the Government of President Gómez ask to have same duly filed, for it confined itself only to denying the soundness of the majority of the said claims, until finally, and in view of the insistence of the claiming Powers that some solution be forthcoming, for which end they proposed in their joint notes of July 3rd, 1911, the submission of the claims to an international arbitration, it accepted in principle said arbitration in a note of the Secretary of State, Mr. Sanguily, of July 10th, 1911, and addressed to the Diplomatic Representatives of the three Powers, proposing the acceptance, as the sole arbitrator, of the President of the United States of America, Mr. Taft, and reserving to specify the matter which should be the subject of the arbitration.

The non-acceptance of that sole arbitrator by the three Powers, and their proposal of the 9th of August, 1911, that in view of the international importance of the decision, the arbitration should be entrusted to a commission in which the three Powers should be represented, caused my learned and honorable predecessor to suggest, on the 12th of said month and year, to the Representatives of the Powers that inasmuch as they had declined to accept the proposition of having recourse to a sole arbitrator, the Government of the Republic might judge itself free from the obligations that they wanted to impose on him, and the ground of which might have been the acceptance in principle of the arbitration proposition that was made to them, but as the Powers on the 7th of November 1911, again insisted that the question be submitted to an international arbitration, inasmuch as the Government of Cuba, when it proposed the arbitrator of a head of a nation had, in their judgment bound itself to adopt the principle of arbitration, although not to any specific procedure therefore, he stated on the 28th of February 1912 that the Government did not at that time reject in principle, as it had not rejected before, the recourse to arbitration, for on the contrary it reiterated its adhesion to that principle of deciding through that method the international conflicts of all of which there was unequivocal evidence in the Convention of The Hague of the 18th of October, 1907, which was signed by the Delegates and approved by the Senate on the 10th of March 1909, and in the other Convention of Rio de Janeiro of the 13th of August 1906, which by reason of the recess of the Senate of the Republic was approved and ratified by the Provisional Governor, on the 17th of March 1908, who hastened to declare in the name of the Government of the Republic of Cuba that
this Republic was always disposed to pay what it may legitimately be indebted for and should be proved beyond any sort of doubt.

The Diplomatic Representatives of the three claiming Powers addressed again a new joint note to the Department of State on the 20th of December 1912, setting forth that they had carefully examined the reply of the Cuban Government dated the 28th of February 1912, and that inasmuch as the Government had in principle accepted the arbitration for the satisfaction of the indemnities claimed by the subjects of the three countries, they had the honor to renew their propositions on the 7th of November 1911 and, consequently, they submitted to the acceptance of the Cuban Government a plan for the arbitration which was annexed to their note, and on the 30th of that same month of December, the Secretary of State, Mr. Sanguily, informed the Representatives of the three Powers that the Government did not agree with the terms of the agreement on arbitration, and that it would draw, at the proper time, its objections and counter propositions, but that it would appeal to Congress for the request of the necessary authority to agree on the arbitration in regard to the claims for damages, notwithstanding and by reason of the circumstance, that these claims were not covered by the text of the First Transitory Provision of the Constitution which pointed out specifically which obligations and debts incurred into by the Revolution were accepted by the Republic and said Constitution had instituted, and that in case that Congress should authorize the execution of the agreement that might be stipulated, it should be submitted to the approval of the Senate—the Secretary of State reproducing in the memorandum in which he set forth the above, the assertion which he had already made on other occasions that it would always be necessary to appeal to Congress for the case included in the above mentioned Transitory Provision of the Constitution, and for the indispensable appropriation that the arbitration trial and its incidentals would demand—the President of the Republic having shortly afterwards sent a message to Congress describing the condition in which the matter stood, and asking authorization to stipulate, with the approval of the Senate, the agreement of arbitration that it might be necessary to arrange with the three powers.

The decision, which in its last sessions and before it adjourned in the last month of June was adopted in the Congress of the Republic in the direction of not giving its approval to the plan for submitting to a tribunal of arbitration the claims filed by the Governments of England, Germany and France, has left an open field for the President of Cuba to initiate again the negotiations in order to reach a decision which may be satisfactory, by its being founded on justice with or without arbitration, or with an arbitration which may have as a subject matter those points only which should be considered as essential in the matter, and which arbitration should at the proper date be set forth in an agreement which must be submitted to the approval of the Senate of the Republic.

It is a clear fact that the Government, moved as it is by its wish to reach a final decision, cannot but need to that end a full information of all the dates and antecedents of the claims referred to, especially in what it refers to the nationality of the claimants their prop-
property titles, and the exact and specific circumstance about the date of the fact on which the indemnity applied for rests, about the place in which they took place, and the verification of the exact amount claimed.

It is not possible, indeed, to advance a step forward in this matter of the claims, without knowing before their essential ground of facts in regard to the nationality and the other above mentioned circumstances because if those elements of nationality, of the title of such property as the claimants alleged to belong to them and the setting forth of the facts which, as the claimants allege, justify their claims and its amounts were lacking, it would not be possible to deal with the subject since it would not even have the foundation of fact set forth by the claimants themselves as the grounds for their allegations.

Up to the present time there are on the files of the State Department no other records in regard to these claims than the concise filed in regard to same, and containing the name of the claimant, the place in which it is alleged that the facts took place and the amount in which the claimant appraises his claim, with some other circumstances which do not complete the amount of information that the Cuban Government needs in order to consider, with full knowledge of causes, the problem that is in course of decision.

Accordingly, the Cuban Government believes that it is indispensable for the proper consideration of the matter, that the claims should be filed, together with the documents which should prove the nationality of the claimants, and with those that may also contain the title to the estate of property under discussion with a sworn statement of the fact on which the claim may rest, and of the evidence thereof, as also of such principles of international law as in the judgment of the claimant, may justify the claims, notwithstanding that it is positive that in the majority of the cases the facts have occurred in the course of war, and as a necessary military operation or for necessities of the campaign at the time in which the present Republic of Cuba had not come into existence and in regard to persons who were not neutrals, inasmuch as they lived officially under the flag of Spain when the latter was the sovereign of Cuba, and the respective Governments of the claimants had not granted belligerent rights to the revolutionary Government.

I feel great satisfaction in communicating to your excellency that, with the data and antecedents at hand, the Cuban Government, within the natural and necessary and usual delay in those cases, be able to consider the matter so as to finally decide as to its attitude on those claims, and decide whether, if in fact, the Government of Cuba would be or not justified in accepting in principle and subjecting to evidence all such as may be proper, the propriety of claims of that kind, or in case it should not accept that propriety, whether it would be proper to submit the question of the responsibility of the Republic to an arbitration in the form and terms which might be agreed upon, and which would differ a great deal from the agreement proposed by the powers and with the understanding that if Cuba should acknowledge as liability in that respect or it should be declared by a Tribunal of Arbitration, then and only then would it undertake to decide specific-
ally each one of the claims in accordance with the evidence that may be produced, and with the principles of International Law on those matters.

Nothing, however, of what is stated in the foregoing paragraph would be possible if the above mentioned data and documents of nationality, titles to property and facts causing the claims and its amount are not presented to the Government, for this is the basis which is under discussion and without that ground, even its consideration would not be possible, for it would be regretful to have to employ time and perhaps to have to defray the expenses of an arbitration on claims lacking even the elements of nationality, titles and the other before mentioned circumstances.

On the other hand, the filing of all data heretofore set forth will permit the Cuban Government to examine the claims and duly classify them in order that those governed by the First Transitory Provision of the Constitution of the Republic may be referred to Congress, pursuant to that legal rule, so as for its consideration on evidence that may be required and produced, and the voting of the appropriation necessary for its payment and in regard to the other claims, to decide in view of the merits of each one of them whether the Government of the Republic may go forward to consider them on the ground of their being no doubt as to the alleged nationality and property title, and because the damage which it is alleged to have been caused should be proved, with the purpose of specifying the reasons on which the Government may ground its refusal to pay in opposition to the assertion of the claimants, as sustained by his Government, all of this bringing about the divergence of views, which may justify the recourse to international arbitration as a means of deciding on said divergence, the Government of Cuba, presided over by General Menocal showing thereby that it maintains, because it was thus expressed by the preceding Government, its adhesion to the principle of arbitration.

Although it may seem unnecessary, the Government of Cuba wishes that the Government of your excellency should take notice of the declaration which it now makes to the effect that the claims that are to be examined are those contained in the statements filed by the Representatives of the three Powers up to the time that Congress rejected the bill before mentioned, and that it could not admit or receive new claims arising out of acts occurred prior to the Independence of Cuba for in the course of the years elapsed since the advent of the Cuban Republic to international life, on the 20th of May 1902, there has been sufficient time to file the claims, and it is not possible that the Cuban State should be subject to an indefinite period of time to the troubles and inconveniences which will be brought about to its credit and tranquility by new claims of the nature of such that are under the files of the Department of State, and which will be the ones to be examined at present on being filed in due form, that is to say, as it has been set forth in the foregoing paragraph of this Note.

I avail [etc.]

[Filed copy not signed.]

Note.—There is no further correspondence during the remainder of the year.
NAVAL STATION AT GUANTANAMO.

The Secretary of State to the American Minister.


Sir: Referring to your No. 571 of December 27, the Department desires to say that it submitted the agreement between the United States and Cuba for the enlargement of the Guantánamo Naval Station to the Secretary of the Navy. He points out a slight error occurring in the English text of paragraph 11 of article I.

You will perceive that this paragraph was correct in the draft furnished with your No. 477 of October 23 last, which reads:

"From the western extremity of this line, a curved line running in coincidence with the northeastern and northern shore line of Flamingo Cay," etc.

The present agreement substitutes the word "northeasterly" for the word "northeastern," an evident error as is shown by the Spanish text, which is correct. It is not known, of course, whether this error also exists in the Cuban original, but I return the agreement forwarded by you in order that correction may be made in both originals if necessary. The correction may be made and signed by the initials of the plenipotentiaries in the margin of the text.

You will return the agreement as soon as possible after correction.

I am [etc.]

P. C. KNOX.

The American Minister to the Secretary of State.

No. 602.] AMERICAN LEGATION, Habana, January 21, 1913.

Sir: I have the honor to acknowledge receipt of the Department's instruction (No. 186) of the 11th instant, regarding an error committed in the English text of paragraph 11 [etc.].

I have the honor herewith to return our copy of the agreement in which, as the Department will perceive, the error has been appropriately corrected and sanctioned by Mr. Sanguily's initials and my own in the margin. I personally examined the Cuban copy of the agreement and found that the same error did not occur in it.

I have [etc.]

A. M. BEAUPRÉ.

The American Minister to the Secretary of State.

No. 605.] AMERICAN LEGATION, Habana, January 23, 1913.

Sir: I have the honor to report that rumors for the past week or so have been current in Habana to the effect that there is a disposition in

1 Continued from For. Rel. 1912, pp. 293–297.
2 Receipt acknowledged by the Department on February 4, without further instructions.

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the Cuban Senate to defer action upon the recent agreement for the enlargement of the Guantánamo naval station. Some senators are said to pretend that they object to alienating such a large portion of the national territory. It is also said that one of their grounds for holding up this agreement is the failure of our own Senate to approve the treaty made several years ago recognizing Cuban sovereignty over the Isle of Pines; they will, it is said, claim this as a precedent for their own inaction.

I visited the Cuban Secretary of State yesterday morning and discussed these rumors with him. Mr. Sanguily assured me that, while a disposition was indeed apparent upon the part of the Senate to delay action upon the agreement, there was no actual opposition to its terms—the various objections stated being merely pretext for deferring action. He believes that it is the purpose of certain senators to avoid any responsibility in the matter by leaving the approval of the treaty to the next Senate, which will come into office on May 20th, or, in other words, those whose terms now expire (none of whom were re-elected) may be looking forward to an opportunity of making political capital among their constituencies out of the fact that they were sufficiently courageous to oppose the approval of a treaty alienating to a foreign power a considerable portion of the national territory. Mr. Sanguily is of the opinion that it is possible that they may succeed.

I have [etc.]

A. M. Beaupré.

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File No. 437.00/49.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, March 27, 1913.

The Cuban Congress adjourned March 26 without acting on the Guantánamo matter. New Congress convenes April 6.

Beaupré.

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Note.—The proposed treaty expired by limitation June 27, 1913, since by its article 5 a stipulation was made for its ratification within six months from its date: December 27, 1912. See For. Rel. 1912, p. 297.

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CUBAN AMNESTY BILL—ATTITUDE OF THE UNITED STATES.

File No. 837.13/2.

The American Minister to the Secretary of State.

[Extract.]

No. 560]

AMERICAN LEGATION,
Habana, December 19, 1912.

Sir: I have the honor to inclose herewith the text, in copy and translation, of an amnesty bill passed by the House of Representatives on

\(^1\) Not printed.
the 16th instant. * * * This bill, in addition to granting amnesty to all those participating in the recent negro uprising, includes in its terms persons guilty of certain minor offenses and (article 2) all public officials or employees guilty of crimes committed before August 12, 1912, in regard to which proceedings were instituted or conviction was had prior to that date. It is understood that this provision will affect only a few convicted officials whom the Executive can not pardon, as well as two or three against whom charges are pending.

The granting of an amnesty to the negro rebels would seem to be an unwise measure in view of the premium which it apparently places upon armed revolt, but there are so many negroes in jail that the Government is placed at considerable expense for their maintenance.

I have [etc.].

A. M. Beaufré.

File No. 837.13/3a.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE, Washington, January 6, 1913—7 p. m.

Including, as it does, other than political offenders, this Government fears that the amnesty bill, if enacted as passed by the House, would create an unfortunate impression that common crimes were allowed to go unpunished in Cuba, and that thus crime was not dealt with in the manner found necessary in all countries to the adequate protection of life, property, and individual liberty. You will make clear orally to the Government of Cuba this apprehension which arises from the friendly interest which the Government of the United States necessarily takes.

Huntington Wilson.

File No. 837.13/4.

The American Minister to the Secretary of State.

No. 585.] AMERICAN LEGATION, Habana, January 9, 1913.

Sir: Referring to the Department’s telegram of January 6, 7 p. m., I have the honor to report that I had an interview with President Gómez this morning regarding the amnesty bill recently passed by the Cuban House of Representatives and explained to him the fears of the Government of the United States that if the bill should become law, including, as it does, other than political offenders, an unfortunate impression would be created that common crimes were allowed to go unpunished in Cuba, and that thus crime was not dealt with in the manner found necessary in all countries for the adequate protection of life, property, and individual liberty. I made this apprehension quite clear to the President, and stated that it arose from the friendly interest which the Government of the United States necessarily takes in such matters.
The President said, in reply, that he thoroughly agreed with the views of the United States Government in this matter; that, as a matter of fact, he had never read the amnesty bill; that he would at once send for it, examine it, and then take such action as he could to comply with your expressed opinions, so that at any rate if the bill should pass it would grant amnesty only to political offenders.

I also called at the Cuban Foreign Office and made similar statements to Mr. Patterson, the Subsecretary of State.

I have [etc.]

A. M. Beaupré.

File No. 837.13/5.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, March 4, 1913—12 noon.

In final form the amnesty bill covers, in addition to rebellion and incitement thereto, the following common crimes and misdemeanors when prosecutable by the State—that is to say, without formal complaint of alleged party:

ARTICLE 1. Those committed through medium of the press, engraving or other mechanical means, or by word of mouth; those committed by persons who have occupied or occupy the elective offices of provincial governor or mayor, crimes against property or honor and embezzlement excluded; simple or reckless impropriety, and coercion or conditional threats except when accompanied by demands of money, or contemplating destruction of property; those committed in connection with workmen’s strikes.

Art. 2. Public employees or officials, without prior criminal record, who are serving sentences, provided they make good any civil liability.

Art. 3. Unchanged.

Art. 4. Enlisted men of army and rural guard guilty of perjury.

Amnesty applies to crimes enumerated committed prior to January 1, 1913.

Beaupré.

File No. 837.13/6.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, March 4, 1913—3 p. m.

Article 2 of amnesty bill as passed is not as reported in my March 4:12 noon, but reads as follows:

Amnesty is granted for all crimes and misdemeanors committed by public functionaries or employees in the exercise of or in connection with their duties, in respect of which criminal proceedings have been instituted or judgment rendered.

This will result in granting immunity to a large number of public officials against whom graft and embezzlement charges are pending depriving injured parties from securing legal redress.

I shall request President Gomez to defer signature of bill until I can ascertain views of the Department.

Beaupré.
The Secretary of State to the American Minister.
[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 5, 1913—6 p. m.

This Government trusts that the President of Cuba pursuant to his declarations reported by you in your No. 585 of January 9, 1913, will take action to restrict the amnesty to political offenders.

BRYAN.

The American Minister to the Secretary of State.
[Telegram—Paraphrase—Extract.]

AMERICAN LEGATION,
Habana, March 6, 1913—7 p. m.

In a note dated today I brought Department's views as expressed in its March 5, to the attention of the President, pointing out the specific instances in which we already knew American interests would be injured and the ends of justice thwarted. I have, however, just received a note stating that the President has determined to affix his signature to the bill in its present form in spite of our objections.

BEAUPRÉ.

The Cuban Minister to the Secretary of State.
[Translation.]

No. 9.]

LEGATION OF CUBA,
Washington, D. C., March 7, 1913.

MR. SECRETARY: I have the honor to inform you that, by a cablegram of this date, my Government directs me to give to the Government of the United States the assurance that the amnesty law recently voted by the Cuban Congress does not comprise offenses against the law of nations and, therefore, does not affect the status of those who may be found guilty of attacks on the members of the Legation of the United States.

I avail [etc.]

ANTONIO MARTIN RIVERO.

The Secretary of State to the American Minister.
[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 7, 1913.

You will immediately inform the Cuban Government that the amnesty bill seems to be not only an injustice to the American citi-
zens affected but also to effect such a withdrawal of due protection to property and individual liberty of Cuba as to excite this Government's concern. In view of its rights and obligations under the Treaty of Relations of 1903, the Government of the United States expresses its firm conviction that upon final study of this harmful measure the President of Cuba will not permit it to become a law.

BRYAN.

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File No. 837.13/8.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, March 7, 1913.

President Gomez to-day signed the amnesty bill in spite of having full knowledge of the views of Department's March 7, and of the threatened American interests.

BEAUPRÉ.

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File No. 837.13/8.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 8, 1913—6 p.m.

You will inform the Government of Cuba of the regret and serious concern this Government feels at the adoption of the amnesty bill and of this Government's apprehensions in regard to its possible consequences. Say also that this Government reserves the right to hold the Government of Cuba fully responsible for the injuries to American citizens in violation of their due rights which the amnesty law may cause.

BRYAN.

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File No. 837.13/12.

The Cuban Legation to the Department of State.

[Not a translation.]

PRO MEMORIA.

The Secretary of State of the Republic of Cuba has addressed a cablegram to the Cuban Minister in which he states that in his desire, which is shared by the majority of the members of the Cuban Congress, of avoiding any cause or pretext that may tend to alter the cordial relations which exist between Cuba and the United States he has been endeavoring to ascertain what are the features of the amnesty bill, pending of approval by the President, which have
been found objectionable to the Government of the United States, with the view of procuring their elimination.

But the Secretary of State has not been able to glean from the numerous notes addressed to him by the American Minister at Havana what precepts contained in that bill are believed to cause injury in any manner to American or other foreign citizens, as no specific article or paragraph has been pointed out by the American Minister; and he therefore instructs the Cuban Minister to request of the Secretary of State of the United States that he indicate the terms of said amnesty bill that are understood to be injurious, and to that effect copy of the bill, and of the articles of the Cuban penal code\(^1\) referred to in the same, are herewith appended.

The Secretary of State of the Republic of Cuba instructs the Cuban Minister to assure the Secretary of State of the United States that this action is inspired by the earnest desire of the Cuban Government and the people of Cuba of strengthening the bonds of friendship and the cordial feelings that happily exist between the two countries, based upon international comity and respect for their mutual rights.

As the time within which the President of Cuba must sign or veto the above-mentioned bill has almost elapsed, while waiting for a specific objection from the American Minister, the Cuban Minister respectfully requests an early reply, so that the Cuban Government may be enabled to show its good faith and sincerity of purpose on the premises.

\textit{Legation of Cuba,}

\textit{Washington, March 10, 1913.}

\[\text{[Inclosure—Translation.]}\]

\textbf{LAW OF AMNEsty.}

\textbf{ARTICLE I. Amnesty is hereby granted for the following crimes and misdemeanors prosecutable \textit{de officio}:}

\begin{itemize}
  \item[(a)] All crimes and misdemeanors committed by means of printing, engraving, or other mechanical method of publication, or by word of mouth.
  \item[(b)] All crimes committed by individuals who have been occupying or who occupy elective offices of provincial governor or of municipal mayor. Crimes against property, against honor, and those of malversation are excepted.
  \item[(c)] Crimes of disrespect or transgression against authority or its agents.
  \item[(d)] Crimes of rash or ordinary imprudence, of coercion or conditional threats which have not had as their object the demand of money or damage to property, and of the crimes of prolongation or usurpation of office.
  \item[(e)] Crimes and misdemeanors committed by reason of laborers' strikes.
  \item[(f)] All crimes of exciting rebellion, rebellion and crimes related thereto, and unlawful association, with the exception of those included in the first paragraph of article 186 of the penal code.
\end{itemize}

\textbf{ART. II. Amnesty is hereby granted for all crimes and misdemeanors committed by public functionaries or employees in the exercise of or in connection with their duties in respect to which criminal proceedings have been instituted or judgment rendered.}

\textbf{ART. III. Amnesty is furthermore granted for crimes of the discharge of firearms against an ascertained person and the discharge of firearms and wounds [sic], provided that they have not left incapacitated the wounded person and without prejudice to civil responsibility.}

\(^1\) Not printed.
Art. IV. Those enlisted in the permanent army and in the rural-guard who may have committed the crime of perjury are included in the amnesty.

Art. V. The amnesty which this law comprises shall include the crimes expressed therein committed before the 1st of January of the present year.

The Department of State to the Cuban Legation.

AIDE MÉMOIRE.

The Department of State acknowledges the receipt of the Cuban Minister’s pro memoria, dated March 10, 1913, wherein reference is made to the amnesty bill recently passed by the Cuban Congress and wherein the Cuban Minister informs the Department that the Secretary of State of Cuba has not been able to ascertain from the numerous notes addressed to him by the American Minister at Habana what precepts contained in the amnesty bill are believed to cause injury in any manner to American or other foreign citizens, adding that no specific article or paragraph has been pointed out by the American Minister, and that the Cuban Minister has consequently been instructed to request of the Department of State that it indicate the terms of the amnesty bill that are understood to be injurious. A copy of the bill and of certain articles of the Cuban penal code accompany the pro memoria.

In reply the Department of State informs the Cuban Minister that the objections to the bill in its provisions other than those providing for the granting of amnesty to political offenders would seem to be manifest from the terms of the bill itself, quite apart from the statements made respecting it in the various communications hitherto addressed to the Cuban Government, as well as from the discussion which the American Legation has had with the Cuban authorities which earlier led to the declaration of the President of Cuba that in view of these objections he would in any event take such action with respect to the bill, if passed, as would cause it to grant amnesty only to political offenders.

It may at this time, however, be reitered that the bill in its articles 1, 3 and 4 appears to grant amnesty for a large number of common crimes committed both by individuals and by Government officials. In its article 2 it grants without any limitation whatsoever amnesty for all crimes and misdemeanors committed by public functionaries or employees in the exercise of or in connection with their duties in respect to which criminal proceedings have been instituted or judgment rendered. (Reference, of course, is to be made to article 5, which limits the amnesty to crimes committed before the 1st of January of the present year.) Aside from the injury to American citizens and others by the denial of legal recourse for wrongs inflicted upon them by the persons whom these provisions would absolve from responsibility, specific instances of which are understood to have been called to the attention of the Cuban Government, it would appear that in general, as previously indicated, the bill as a result of practically all its provisions would create a situation with respect to the administration of law and the enforcement of justice in Cuba which would seem to
evidence a failure of the Cuban Government adequately to protect life, property and individual liberty.

The objection of this Government, therefore, to the bill is that, in all its provisions, with the exception of those applying to political offenses, it would seem to threaten consequences which both Governments desire to avoid.

**DEPARTMENT OF STATE,**

*Washington, D. C., March 12, 1913.*

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**File No. 837.13/12.**

*The Secretary of State to the American Minister.*

[Telegram—Paraphrase.]

**DEPARTMENT OF STATE,**

*Washington, March 12, 1913.*

Inform the Minister for Foreign Affairs that in answer to the Cuban Minister’s pro memoria the Department has replied as follows [see supra.]

**BRYAN.**

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**File No. 837.13/14.**

*The American Minister to the Secretary of State.*

[Telegrams—Paraphrases.]

**AMERICAN LEGATION,**

*Habana, March 14, 1913.*

President Gomez to-day returned the amnesty bill to Congress recommending that it be amended so as to cover only political offenses but without prejudice to right of Congress later to consider grant of amnesty for the other crimes the present bill covers.

**BEAUPRÉ.**

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**File No. 837.13/16.**

*AMERICAN LEGATION,*

*Habana, March 15, 1913.*

The amnesty bill passed House yesterday in amended form, covering political and electoral crimes, as follows:

Amnesty is hereby granted for all crimes committed in connection with the rebellion of 1912; and for crimes of a similar character committed in connection with or in consequence of political or electoral struggles either by individuals or by the press when the penalty is not of the afflictive grade. (As defined by code) excepting in the case of the press offenses against the law of nations. Such crimes in order to come within the terms of this amnesty shall have been committed prior to January 1 of the present year.

The so-called electoral offenses—including frauds and all pre-election and postelection personal assaults, etc., which can in any way be connected with “political struggles”—are now introduced for the first time.

Speaker Ferrara, seconded by Oscar Soto, the Congressman who acknowledged authorship of libellous attacks on Legation which appeared in Cuban newspaper, introduced a resolution providing for the appointment of a commission to investigate the behavior of the American Government.

**BEAUPRÉ.**
The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 18, 1913—4 p. m.

You will not further press objections to amnesty bill.

HUNTINGTON WILSON.

The American Minister to the Secretary of State.

No. 657.]

AMERICAN LEGATION,
Habana, March 18, 1913.

Sir: Referring to recent telegraphic correspondence in regard to the amnesty bill, and particularly to my telegram of March 15, I have the honor more fully to report upon the motion presented by Speaker Ferrara and others to the House of Representatives on March 14.

This motion recites in preamble that it is currently reported in the press and elsewhere that in the past few days the Cuban Executive has received “repeated notes” from the Government of the United States affirming that the provisions of the Platt Amendment are opposed to the “measure of clemency” contemplated in the amnesty bill; and while the “representatives of the nation” have not been unaware that for some time one of the parties to the Platt Amendment has been giving it a “broad and erroneous construction,” they believe, nevertheless, that if current reports about the notes concerning the amnesty are true, the action of the United States is a “patent violation of the national sovereignty” of Cuba.

“Be it therefore resolved,” the motion continues, “that the House appoint a committee of its members, chosen from the several political parties, for the purpose of investigating whether the Government of the United States has formulated demands upon the Government of Cuba which might be regarded as harmful to the sovereignty of Cuba; and that the said committee shall, with the urgency which the question requires, report its findings to the House.”

Another motion upon the same subject, signed also by Ferrara and others, was presented at yesterday’s session. This motion recites that there is an insistent public demand in Cuba for an authoritative definition “of the true and rightful scope of the Platt Amendment”, in view of the many “contradictory interpretations in its application” by the American Government, and cites in this connection the recent utterances of Senator Bacon on this subject in the United States Senate. The motion then provides for a resolution declaring—

First, that the Cuban people have always regarded the Platt Amendment compatible with their independence and self-government with certain restrictions, which in order to guarantee that independence, the several clauses thereof provide.

Second, that the [Cuban] Congress will oppose any act of a foreign power contrary to the lawful rights of Cuba, and will start a friendly propaganda before the American Congress and people in order to procure the definition and
application of the Platt Amendment in the sense most favorable to the rights of the [Cuban] Government as recognized in the joint resolution.

I have [etc.]

A. M. Beaupré.

File No. 837.13/18.

The American Minister to the Secretary of State.

[Telegrams—Paraphrases.]

AMERICAN LEGATION,
Habana, March 20, 1913.

Because of a constitutional technicality the Senate yesterday rejected House amnesty bill.

Beaupré.

File No. 437.00/49.

AMERICAN LEGATION,
Habana, March 27, 1913.


Beaupré.

File No. 837.13/20.

AMERICAN LEGATION,
Habana, May 1, 1913—10 a. m.

Amended amnesty bill passed House. It grants amnesty not only to those implicated in the negro uprising but also to citizens, including officials, guilty of electoral frauds; of newspaper attacks and libels previous to January 1; of violations of the law in connection with questions of honor (a provision intended to absolve former Speaker Ferrara and others concerned in recent killing in a duel of the American citizen Rudolph Warren); and grants amnesty for the attempt on the life of Congressman André by the President's son.

Beaupré.

File No. 837.13/20.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 1, 1913.

How does the new bill differ from that of the last session?

Moore.

File No. 437.13/21.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, May 1, 1913—8 p. m.

The bill differs materially only as mentioned in my telegram of May 1, 10 a. m.

Beaupré.
The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,
Habana, November 19, 1913.

Department’s telegram of March 18 and other correspondence, amnesty bill yesterday. It covers, as did the original bill, crimes and misdemeanors relating to the negro uprising of 1912 and also the following:

Offenses committed by public officials in the discharge of their functions who shall have served three months of their sentences and made good the civil liability attaching to such offenses.

Offenses penalized by electoral laws.

Offenses committed by or through or connected with the public press, except personal libel and offenses against the law of nations.

Discharge of firearms resulting in bodily injury not permanently disabling.

Resisting or assaulting officers.

Contempt of court.

Offenses against the person resulting from adultery, and so-called “passional” offenses including assault and attempted murder because of jealousy etc., but not homicide or murder classified in the code as a “crimen” or “delicto.”

Offenses related to strikes, lockouts, conspiracy in restraint of trade, etc.

The bill covers all the offenses described that were committed prior to May 20, 1913, except in the cases of the negro uprising where the limit is January 1, 1913.

GONZALES.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 21, 1913.

You may at an opportune time discuss the matter reported in your telegram of November 19 with the President of Cuba if he seems inclined to approve the bill, pointing out this Government’s views in the sense of the Department’s telegram of January 6, 1913, 7 p.m. The bill appears to have substantially the same scope as the one of December 16, 1912; in this connection you are referred to the Department’s telegrams of March 5, 7, 12 and 18, 1913.

BRYAN.

The American Minister to the Secretary of State.

No. 43.]

AMERICAN LEGATION,
Habana, November 25, 1913.

Sir: Referring to my telegram of November 19, and the Department’s reply of November 21, in regard to the new Amnesty Bill
reported by a joint committee of the Senate and House of Representa-
tives; I have the honor to enclose herewith, in copy and trans-
lation, the text of the bill.

Yesterday I had a most satisfactory conversation with President
Menocal, during a very informal call, regarding this measure.

There was no occasion to remind the President of representa-
tions made to a former administration on this subject by the
Department. Upon the subject being mentioned he instantly de-
clared his belief that the measure would not pass Congress; he said
he was endeavoring to have it killed because he wished Congress thus
to dispose of it for the sake of the country's good name, but that
if it passed he would veto it. The President said he had already re-
leased all of the "political" prisoners except a handful of men whose
general records against law were bad.

I have [etc.]

WILLIAM E. GONZALES.

File No. 837.13/25.

The American Minister to the Secretary of State.

[Telegram—Paraphrases.]

AMERICAN LEGATION,
Habana, December 18, 1913.

The President has vetoed the amnesty bill.

GONZALES.

File No. 837.13/26.

AMERICAN LEGATION,
Habana, December 20, 1913.

In his message accompanying the amnesty bill the President said
that he vetoed it because of its provisions covering common crimes.

GONZALES.

ZAPATA SWAMP CONCESSION.

File No. 837.6112/25.

The Secretary of State to the American Minister.

No. 185.]

DEPARTMENT OF STATE,
Washington, January 11, 1913.

Sir: Referring to instruction No. 159, of October 28th last, on the
subject of the Zapata Swamp concession, you are informed that the
Department has had a number of conferences with Mr. Isaac K.
Champion, representing the Compañía Agricultora de Zapata, the con-
cessionaire of the proposed concession for the reclamation of the
Zapata Swamp, and has now concluded its study of the matter.

Mr. Champion, on behalf of the company, has stated that the com-
pany is willing and proposes to attempt to have the concession con-
tract amended by the inclusion of new provisions in effect as follows:

(1) A provision attempting, in advance of the proposed survey, to
define more exactly the boundaries of the swamp. This refers particularly to the southern boundary, which has been represented by Mr. Champion to be a ridge of high land extending from the eastern to the western limits of the swamp along its southern side, separating the true fresh-water cienaga from the salt-water marsh to the south of the ridge in the Zapata peninsula.

(2) A substitute provision for the present provisions respecting the rights of the private owners of land within the territory of the swamp, the new provision to provide that the company shall have the right to drain such privately owned land, if not drained by the owners, for a price to be paid by the owners equivalent to the cost of the work of draining their land plus a profit to the company on this work of ten per cent. It is further understood that adequate provision will be made to protect the rights of the private owners with respect particularly to the assessment of this cost.

(3) A provision to the effect that, irrespective of the general grants of privileges to the concessionaire made by the concession contract, all merchantable timber on Government lands drained or to be drained by the company shall remain the property of the Government of Cuba.

As these proposed amendments seem, under the Department’s present information gathered from the conferences with Mr. Champion and corroborated by the report of the Consul General’s investigation, to obviate the principal criticisms of the measure hitherto made, their incorporation in the concession law and contract would serve to remove the Department’s objections to the project communicated to the Cuban Government at the time of the issuance of the Executive Decree of June 18, 1912.

Mr. Champion has been informed of this present position of the Department in the matter and the observation added that this attitude by the Department should not, of course, be taken or used as an endorsement by the Government of the United States of the project as a commercial enterprise.

Referring to the previous correspondence in the matter, you will address a note to the Cuban Foreign Office in the sense of the foregoing.

I am [etc.]

P. C. Knox.

The Secretary of State to the American Consul General.

No. 321.] Department of State,
Washington, January 11, 1913.

SIR: The Department is in receipt of your despatch No. 674, of November 20th last, enclosing a report by you on the matter of the proposed concession to the Compañía Agricultora de Zapata. Your No. 675, of November 23rd, making an amendment to the report, has also been received.

\[Footnote 2:\] For. Rel. 1912, p. 321.
An instruction was sent to Minister Beaupré on the 11th instant, informing him that Mr. Champion, on behalf of the company, has stated that the company is willing and proposes to attempt to have the concession contract amended by the inclusion of new provisions in effect as follows: [as in the foregoing instruction to the Minister.]

Mr. Beaupré was further informed that as these proposed amendments seem, according to the information now before the Department, to obviate the principal criticisms of the measure hitherto made, their incorporation in the concession law and contract would serve to remove the Department’s objections¹ to the project communicated to the Cuban Government at the time of the issuance of the Executive Decree of June 18, 1912; and he was instructed to address a note to the Cuban Foreign Office in the sense of the foregoing.

Mr. Champion has been informed of this present position of the Department in this matter and the observation was made to him that this attitude of the Department should not, of course, be taken or used as an endorsement by the Government of the United States of the project as a commercial enterprise.

I am [etc.]

P. C. Knox.

The American Consul General to the Secretary of State.

No. 727.]

American Consulate General,
Habana, March 20, 1913.

Sir: I have the honor to inform you that the Compañía Territorial de Zapata, the Cuban organization to which was given the concession for the drainage and reclamation of the great Zapata Swamp in the Provinces of Matanzas and Santa Clara, has transferred all its rights, privileges and property to an American corporation, organized under the laws of the State of Delaware, and capitalized for $5,000,000.

The officers of this company state that the work of the survey of this great tract of flooded land will begin as soon as possible and that it will be done by an American firm of the highest standing and reputation. As soon as the engineering questions involved are settled the company purposes to begin the active work of reclamation through an extensive drainage system and to establish various enterprises in connection.

There does not now appear to be any doubt as to the intent of this company to use every effort to forward this great reclamation project. Under even a measurably successful conclusion of the work there cannot fail to be great benefit to all property in the section, and incidentally to all Cuba.

The detail of this work will be reported as soon as there is sufficient data upon which to base a comprehensive description.

I have [etc.]

James L. Rodgers.

¹Id. 311.
The American Minister to the Secretary of State.

No. 664.]

AMERICAN LEGATION,
Habana, March 22, 1913.

Sr: I have the honor to enclose herewith in copy and translation Decree No. 83, which revives the Zapata concession upon terms which seem to conform with the Department’s previous objections.

I have [etc.]

A. M. BEAUPRÉ.

[Inclosure—Summary.]

Decree No. 83 of January 31, 1913, repeals Decree No. 758 of August 14, 1912, which suspended Decree No. 556 of June 18, 1912; this renewal of the operation of No. 556 is made in view of the withdrawal of the objections that had been made [by the United States] thereto, and in view of the amended interpretation to be given that decree, agreed to by the concessionaire, and here stipulated [embalying the amendments-mentioned in the instruction of January 11, 1913, to the American Minister].

The Secretary of State to the American Minister.

No. 215.

DEPARTMENT OF STATE,
Washington, April 4, 1913.

Sr: The Department has received your No. 664 of March 22 last in which you enclose a copy and translation of Decree No. 83, reviving the Zapata concession upon terms which, you state, seem to remove the Department’s previous objections.

In reply I enclose a copy of the Department’s letter of today’s date to Mr. Isaac K. Champion, President of the Zapata Land Company.

I am [etc.]

FOR MR. BRYAN:
ALEVY A. ADEB.

[Inclosure.]

The Secretary of State to Isaac K. Champion.

DEPARTMENT OF STATE,
Washington, April 4, 1913.

Sr: The Department acknowledges your letter of March 19, 1913,1 in which you enclose a copy of the Gaceta Oficial of February 4, 1913, containing a copy of Presidential Decree No. 88, which appears to put in force Decree No. 556 of June 18, 1912, by accepting the modifications in the latter decree proposed by the Compañía Territorial de Zapata.

The Department has noted your statement that “as agreed in discussing this matter with the State Department at Washington in accordance with my written communications to the American Legation at Habana, all the rights and actions acquired under this concession formerly held by the Compañía Territorial de Zapata, a Cuban corporation, have been duly and legally transferred and assigned to the Zapata Land Company, a corporation organized under the laws of

1Not printed.
CUBA.

the State of Delaware." Regarding this statement it should perhaps be observed that the officers of the Department with whom you conferred have no recollection of the agreement you seem to allege between the Department and yourself that the concession rights should be transferred to an American company. This would appear to be a matter which concerns only the concessionaire and the Cuban Government.

I am [etc.]

For Mr. Bryan:
ALVEY A. ADEE.

CONCESSION FOR THE CONSTRUCTION OF A BRIDGE ACROSS THE ENTRANCE TO THE PORT OF HABANA; ATTITUDE OF THE UNITED STATES.

File No. 837.156/26.

**The American Minister to the Secretary of State.**

No. 683.]

American Legation, Habana, March 16, 1911.

Sir: Referring to my despatch No. 529 of December 28, 1910, I have the honor to report that by Executive Decree No. 180, dated the 10th instant, published in the Official Gazette (No. 62) of March 15th, a concession has now been granted to one Arturo Dworzak to construct a steel bridge across the entrance to the port of Habana from the "Capitanía del Puerto" to the extreme south part of the fortress "La Cabaña." Work on the bridge is to begin within six months and must be terminated in fifty-four months without obstructing the channel in the meantime.

I have [etc.]

JOHN B. JACKSON.

File No. 837.156/26.

**The Acting Secretary of State to the Secretary of War.**

Department of State, Washington, March 24, 1911.

Sir: I have the honor to enclose a copy of a despatch from the American Minister at Habana in which he reports that by Executive Decree a concession has been granted to Arturo Dworzak to construct a steel bridge across the entrance to the port of Habana.

I have [etc.]

HUNTINGTON WILSON.

File No. 837.156/26.

**The Acting Secretary of State to the American Minister.**

Department of State, Washington, March 24, 1911.

Sir: The Department has received your No. 683 of the 16th instant in which you report that by Executive Decree a concession has been

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1 Not printed.
granted to Arturo Dworzak to construct a steel bridge across the entrance to the port of Habana.

A copy of your despatch has been forwarded to the Secretary of War.

I am [etc.]

Huntington Wilson.

File No. 837.156/113.

The American Minister to the Secretary of State.

No. 502.

American Legation, Habana, November 15, 1912.

Sir: Referring to my despatch No. 111 of February 15, 1912,† to the Department's unnumbered instruction of March 24, 1911, and to previous correspondence, in regard to a concession granted to one Arturo Dworzak for building a bridge across Habana harbor between Habana and Casa Blanca, I have the honor to enclose herewith copy of a letter dated the 18th instant (received today) from the Havana Coal Company, concerning a proposed modification in the plans for this bridge, now pending approval by the Executive, and which, if approved, would, that company alleges, do incalculable harm to its property at Casa Blanca. The grounds upon which the Havana Coal Company objects to the proposed modification of the concession are fully set forth in its letter. The Havana Coal Company is an American corporation controlled by the Berwind-White Coal Mining Company of New York. Its coal-handling plant at Casa Blanca is a large and valuable property.

As it is reported in the press of this city that the President will, notwithstanding an unfavorable report of the Junta de Puertos, probably approve the modified project, I have ventured, pending the receipt of appropriate instructions from the Department, to request the Cuban Secretary of State to cause the matter to be held in abeyance until I should be able to ascertain the Department's wishes. I enclose a copy of my note † to the Cuban Secretary of State in this sense.

I have [etc.]

A. M. Beaupré.

File No. 837.156/117.

The Secretary of State to the American Minister.

No. 177.

Department of State, Washington, December 13, 1912.

Sir: The Department has received your No. 502 of the 15th ultimo regarding the concession granted to Arturo Dworzak for building a bridge across Habana harbor between Habana and Casa Blanca.

In reply I enclose for your information copies of letters† from R. Floyd Clarke, attorney for the Habana Coal Company, dated December [November] 26, 1912, and from J. A. L. Waddell, representative of the Habana Bridge and Loan Company, dated December 2, 1912, in regard to the controversy between the Coal Company and

† Not printed.
the Bridge Company as to the location of the piers of the projected bridge, which controversy the Department is informed has now been adjusted. These letters have been referred to the War Department and the Navy Department for their consideration.

Apart from the controversy between the two companies, the Department desires further investigation and report concerning this Government's possible interests in the matter, particularly respecting the land grant feature of the concession.

I am [etc.]

FOR MR. KNOX:
HUNTINGTON WILSON.

File No. 837.156/129.

The American Minister to the Secretary of State.

No. 587.]

AMERICAN LEGATION,
Habana, January 10, 1913.

SIR: Referring to my despatch No. 502 of November 15, 1912, concerning the protest of the Havana Coal Company against the proposed modification in the plans for building a bridge across Habana harbor between Habana and Casa Blanca, I have the honor to enclose herewith copy and translation of a note dated the eighth instant which I have today received from the Cuban Secretary of State.

I have [etc.]

[Inclosure—Translation.]

REPUBLIC OF CUBA.
DEPARTMENT OF STATE
No. 67.

HABANA, January 8, 1913.

MR. MINISTER: With reference to your excellency's esteemed note No. 421 of November 15th last, in regard to certain representations made to the Legation by the Havana Coal Company concerning a project to build a suspension bridge, I have the honor to inform your excellency that the President of the Republic, in his decree of December 12th last accepting modifications in the bridge, took into consideration the suggestions of Mr. Sanborn, secretary of that company, as embodied in a telegram received by the concessionaire, reading as follows:

Sanborn has suggested, and I have agreed, subject to your approval, to change the tangent of the bridge 430 feet to the westward along the wharf (of the Havana Coal Company), thus avoiding any damage to the coal business. The new tangent crosses (the channel) perpendicularly to the wharf (of the Havana Coal Company), cutting the tangent of the southern approach to 390 feet from the extreme end of the intermediate curve. The principal sections of the bridge are not to be changed. The northern approach turns to the right and from the end again turns to the left and ends approximately 100 feet from the center of the water storage. The two central radii of the new curve measure 100 feet.

I avail [etc.]

G. PATTERSON.

File No. 837.156/129.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 15, 1913.

Habana bridge matter. Your despatch January 10, No. 587. This matter has been considered by the War and the Navy Departments
in relation to the interests of the United States and of Cuba, irrespective of the controversy between the coal company and the bridge company. In an opinion recently submitted the Navy Department points out that even under the amended plans the bridge threatens seriously to congest traffic in the narrow harbor entrance and to embarrass the movements of the larger ships; and it emphasizes the consideration that if, either in peace or war, any part of the span were to fall, which could easily be effected with a charge of dynamite, it would close the harbor, shut in vessels on the inside and keep out vessels on the outside.

Inform the Cuban Government of the substance of the foregoing and add that the Department believes that upon consideration thereof the Cuban Government will not be willing to go on with a project so seriously threatening the trade and military interests of the two Governments.

If you find opposition to this view, you will request delay or suspension of action until the two Governments shall have further opportunity to discuss the matter.

KNOX.

File No. 837.156/131.

The American Minister to the Secretary of State.

[Telegrams—Paraphrases.]

AMERICAN LEGATION,
Habana, January 16, 1913.

I have sent a note in pursuance of your telegram of January 15. It would be well to consider that the land to be ceded to the bridge company is really a military reservation and is the only available place where, except for Camp Colombia, United States troops could be quartered in Havana.

Beaupré.

File No. 837.156/132.

AMERICAN LEGATION,
Habana, January 25, 1913.

The following reply regarding bridge has been received from the Cuban Secretary of State:

Since the bill in question has been enacted by Congress and approved by the President, the latter has no means at his disposal for suspending its effect; but he intends to defer its execution for a reasonable period in the confident hope that the United States will promptly complete its study of the matter and, if there are no objections to so doing, communicate its findings to the Government of Cuba.

Beaupré.

File No. 837.156/132.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 28, 1913.

You may reply to the Cuban note saying that the reasons already given would seem to demonstrate that from the standpoint of the
mutual interests of both Governments the project is not advisable; nevertheless this Government hopes soon to conclude its study of the matter and will be glad to communicate further with the Cuban Government, and trusts that action will be suspended in the meantime. Respecting the suggested difficulty of suspending action, you may say that it would seem to the Department that a precedent is afforded by the course taken in the Zapata matter.¹

KNOX.

File No. 837.150/135.

The American Minister to the Secretary of State.

No. 610.]  

American Legation,  
Habana, January 29, 1913.

Sir: I have the honor to acknowledge receipt of the Department’s telegram of January 28 in regard to the so-called Habana-Casa Blanca bridge concession, and to transmit herewith enclosed copy of a note which I today addressed to the Cuban Secretary of State on the matter. As the Department will observe, I have ventured to omit from this note any allusion to the precedent created by the suspension of the Zapata Swamp concession.

The Zapata Swamp concession was granted by the President in conformity with the power vested in him by the Law of Waters, a general body of legislation, and was in reality nothing more than a contract. The contract was not to become effective until thirty days after its publication in the Official Gazette, when, if no valid objections were made, the company might claim its contract. During this thirty-day period the Department made its objections to the contract and the President, acting within the authority granted him, suspended the effects of the decree to permit an investigation. Even under these circumstances he suspended his decree only with the consent and at the instance of the concessionary company which preferred to suspend the decree until the project could be made to conform to the wishes of the American Government, thus avoiding subsequent complications.

The bridge concession, on the contrary, was granted by a special bill in Congress which, upon signature by the President, became a law. The decree has been duly published and become a part of the law, and the company has begun work. The President could no more suspend this measure than he could repeal any other piece of legislation.

I have [etc.]

A. M. Beaupré.

[Inclosure.]

The American Minister to the Cuban Secretary of State.

No. 472.]  

American Legation,  
Habana, January 29, 1913.

Your Excellency: I have the honor to acknowledge receipt of your excellency’s courteous confidential note of the 24th instant, concerning the so-called Habana-Casa Blanca bridge concession.

¹See ante.
In reply I am instructed to say to your excellency that while the reasons already indicated in previous correspondence would seem to demonstrate the inadvisability of the project from the standpoint of the mutual interests of both Governments, my Government hopes soon to conclude its careful study of the question, when it will take pleasure in communicating further with your excellency’s Government. In the meantime my Government trusts that action in the matter may be suspended.

I am, etc.,

A. M. Beaurep.

The American Minister to the Secretary of State.

No. 620.]

American Legation,
Habana, February 6, 1913.

Sir: Referring to my despatch No. 610 of the 29th ultimo, in regard to the Habana-Casa Blanca bridge concession, having looked into the question of the right of the Government to annul a concession of this character, I have the honor to report the following upon what I regard as sound legal authority.

It is a well-established principle of Spanish jurisprudence that the Government may at any time revoke or annul a contract or concession, not alone for infrac­tion of any of its terms or conditions by the party or concessionaire but merely on grounds of public interest or convenience. The principle is founded on the rule that the Government may rectify its errors even at the cost or inconvenience of another, because, as distinguished from the errors of a private party, they affect the general public interest. There is such abundant and such a long line of precedent in support of the principle, both in Spain and in Cuba, that no one would venture to question it. The only question that could arise would be as to the authority of the Executive to revoke. Cuba has a constitution and a form of government closely modeled after our own. Many, or in fact nearly all, of the old Spanish laws are still in force in Cuba because no laws better adapted to the changed conditions have been enacted to take their place since the establishment of the Republic. These laws confer upon the Executive many powers that in the United States are legislative, and, in the spirit of the Cuban Constitution, should be so in Cuba. Cuban Executives have, however, largely continued to execute powers of doubtful constitutionality, and their right to do so has never been successfully challenged. In the case in point the concession was granted by Congress; the Executive decrees carrying the act into effect are merely reglementary. On the other hand, according to the practice which ordinarily obtains here in the granting of concessions of this character, Congressional action was necessary in this case only because of the grant of land attached to the concession, the granting of the bare concession being, under the Spanish law, vested in the Executive. Thus viewed, the special act of Congress in this case was merely an enabling act by which the Executive was authorized in this special case to exceed his usual power: his power to grant the bare concession, and consequently to revoke it, being unimpaired. This question is, however, more academic than practical, because it is hardly likely that there would be any opposition to an attempt upon the part of the Executive to revoke the concession.
In the case of annulment of a concession on the ground of public convenience, the established rule is that the concessionaire must be indemnified all actual moneys necessarily expended by him upon the object of the concession up to the time of annulment, with legal interest on each several amount from the date of disbursement to the date of indemnification, plus one year. The amount of the indemnity is usually settled by mutual agreement, or may, by either party, be referred to the courts for ascertainment. It is usual to allow, in addition to actual expenses of execution, if any, all reasonable lawyers' and engineers' fees and expenses legitimately incurred in procuring the concession and in preparing for its execution; but it is very doubtful whether any allowance could be made for "promotion" expenses (procuring capital, etc.) or for any liability that might attach to the concessionaire (abroad, for in Cuba there could be none) by reason of capital and like engagements, or contracts for materials and services. In no case could the potential value of the concession as a prospective profit-earner be considered. When a controversy regarding the reasonableness of expenses upon which a claim for damages is based is referred to the courts for adjudication, the courts may pass freely upon the reasonableness of the alleged expenses however good a showing claimant might make as to their genuineness.

I have [etc.]

A. M. Beaupré.

File No. 837.156/135.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 8, 1913.

The War Department's report, now received, points out:
1. The bridge project is in conflict with a carefully studied and very desirable plan of harbor improvement projected by a board appointed during the Provisional Government and approved by the Provisional Governor on November 19, 1909.
2. The bridge project, apart from the objections already made by the Navy Department, is declared to be wholly objectionable from the standpoint of the interests of both Governments, principally for the following reasons: The height above the water is insufficient to permit the passage of the wireless masts of large steamers which must be expected to use the port of Habana after the opening of the Panama Canal. The placing of a bridge-pier in the now too small entrance to the harbor will endanger navigation and will prevent widening the channel, which must be effected in the not distant future. The land grant of the concession takes part of the existing military reservation which is required for military uses, including the field of fire required for the fortresses. New defenses for Habana harbor may be required on this reservation and consequently it is imperative that it should not be alienated from the possession of the State.
When communicating the foregoing to the Cuban Government you will say that this Government is so firmly convinced that the project is inadmissibly detrimental to the vital interests of both Governments that it confidently expects that the responsible Cuban authorities will not permit its execution, whatever may be the technical difficulties now in the way thereof.

Knox.

File No. 837.156/134.

The Secretary of State to the American Minister.

No. 195.]

DEPARTMENT OF STATE,

Washington, February 13, 1913.

Sir: Referring to the Department's telegraphic instruction of February 8 concerning the Habana bridge project, I enclose a copy of a letter\(^1\) from the Secretary of War dated January 25 last, and a copy of its accompanying report\(^1\) made by Colonel Black of the United States Engineers, dated January 11, 1913, and its enclosures; also a copy of a letter\(^2\) from the Acting Secretary of the Navy dated December 27, 1912, and of the accompanying report of the General Board; also a copy of a statement\(^1\) under date of July 8, 1912, made by Colonel Black respecting the bridge project at the time of his report concerning the ports improvement project.

These reports are sent for such use as the Legation may find it necessary to make of them in connection with its representations to the Cuban Government in accordance with the instructions hitherto issued.

Respecting Colonel Black's observations concerning the force and effect of the adoption by the Provisional Government on November 19, 1909, of the plan of harbor improvement projected by the Government Board appointed in 1907, it may be observed that while under the circumstances, as understood by the Department, the Department is not now disposed to argue upon the question whether or not this project is now legally binding on the present Cuban administration and must be executed unless further formally modified under the laws of Cuba, the Department is of opinion that you might properly call to the attention of the Cuban Government the apparent advantages of the former plan and deplore any interference with it by anything such as the present objectionable project.

Regarding the suggested difficulties in the way of now preventing the consummation of the bridge project, it is to be observed that the Cuban Government in its note transmitted in your telegram of January 25 seems in substance to concede the possibility of suspending its execution and possibly the necessary steps to this end may be taken without great difficulty. However this may be, the Department desires you in your representations to the Cuban Government to leave no doubt as to the unalterable character of the Department's opinion that the project is inadmissibly detrimental to the vital interests of both Governments and as to the expectation that the appropriate measures will be taken to prevent its execution. Respecting the Legation's comparison of the present situation with the Za-

\(^1\) Not printed.
pata situation, it may be noted as of possible service that the law of December 21, 1910, which, according to the Department's information, is the only special law regarding the bridge project, while it looks to the construction of the bridge, seems in the main to be merely an authorization to the Executive to make the land grant which is a feature of the concession. On the other hand, Decree No. 80 of March 10, 1911, which seems to be the original definition of the bridge project proper, makes no specific reference to the law of December 21, 1910, and seems, like the Zapata decree, to rest for its authority on the provisions of general laws—in the present case the Law of Ports and General Law of Public Works.

You will keep the Department informed of the developments in the matter.

I am [etc.]

P. C. Knox.

The Secretary of State to the American Minister.

No. 196.]

DEPARTMENT OF STATE,
Washington, February 14, 1913.

Sir: The Department has received your No. 620 of the 6th instant, expressing your views on the possibility of revocation or annulment by the President of Cuba of the Habana-Casa Grande bridge concession.

In reply the Department refers you to its instruction of the 13th instant in regard to the matter. The statements made in your dispatch seem to confirm the Department's view that the execution of the concession may be prevented without great difficulty.

I am [etc.]

P. C. Knox.

The American Minister to the Secretary of State.

No. 637.]

AMERICAN LEGATION,
Habana, February 26, 1913.

Sir: I have the honor to acknowledge receipt of the Department's instruction No. 195 of the 13th instant concerning the Habana-Casa Grande bridge project, and to transmit herewith enclosed copy of a note, which, in pursuance of the Department's instructions, I addressed to the Cuban Government on the 24th instant.

On that day Mr. J. A. L. Waddell, representing the firm of Waddell and Harrington, who appear now to be the promoters of the project, called at the Legation and stated that, as he did not consider our objections to the project valid and reasonable, he intended to go ahead "and put the project through despite the objections of the American Government."

The Legation did not endeavor to enter into a discussion with him as it did not consider it within its province, but, at his request, agreed to inform the Department of his intention of going ahead with the construction of the bridge.

I have [etc.]

A. M. Beaupré.
American Legation,  
Habana, February 24, 1913.

Your Excellency: Referring to your excellency’s confidential note No. 9 of January 24, 1913, in regard to a concession for a bridge across Habana harbor, I have the honor to inform your excellency that my Government has now completed its study of the matter, as a result of which it is convinced that the project is inadmissibly detrimental to the vital interests of both Governments, and I am instructed accordingly to express to your excellency’s Government the confident hope that appropriate measures will be taken to prevent its execution.

The project is objectionable upon the following principal grounds among others of less import:

1. Location of piers.—The channel of Habana harbor is already very narrow for existing traffic. The immediate effect on the location of bridge-piers in the shallower water on either side of the channel will be to divert to the main channel, and thus further congest it, small vessels which can now use the shallower water. The inadequacy of the channel will be further accentuated by the progressive increase in the volume of oversea traffic, and in the size of vessels calling at Habana, particularly after the opening of the Panama Canal. For these reasons the widening of the channel will in all likelihood eventually be found necessary, but obviously could not be accomplished with bridge-piers occupying the space available for the purpose. In this connection attention is invited to a project formulated, after an exhaustive study of the matter, by a board of engineers appointed for the purpose, contemplating certain needed improvements in the littoral between La Fuerza and the Punta. This project was formally sanctioned by the Provisional Governor of Cuba on November 19, 1908, and is described on pages 348 and 349 of Governor Magoon’s report for the period between December 1, 1907, and December 1, 1908, and a map is inserted opposite page 390 of the same document. These improvements would seem to be of greater moment to the public welfare than a bridge across the harbor of doubtful or unproven necessity.

2. Clearance under bridge.—It seems that as the bridge is now planned the clear (maximum) height from water-level is but 150 feet. While it is true that none of the vessels which regularly call at this port now require a greater clearance, there is a marked tendency to increase, and during the past two tourist seasons larger ships have come here than a few years before had been thought likely. The larger modern vessels plying between European ports and the United States have a mast height of from 156 to 212 feet, and there is a general tendency to increase the height of wireless-telegraph masts. After the Panama Canal is opened much larger vessels will regularly call at this port than at present.

3. Danger of bridge.—The possibility that the bridge might, through accident or design, be dropped into the harbor, and thus completely block egress and ingress, is regarded by my Government as one of the serious disadvantages of the project—a compelling consideration, in fact, which outweighs in itself any advantages which friends of the bridge might claim for it. In case of war no more effectual nor an easier method could be found to blockade the harbor.

4. Cabáñez Military Reservation.—The alienation of the excellent military reservation back of Cabáñez fortress must, upon mature reflection, seem to the Cuban Government, as it does to my own, very ill-advised. This is the only State land close to the city suitable for a military encampment, and it is necessary, moreover, as a field of fire for the Cabáñez and Morro fortresses; for, while the fortresses themselves are out of date, new defenses for this harbor will eventually be required on this reservation, and none of it ought, therefore, to be alienated from the State.

There are other considerations scarcely less compelling than the foregoing—such, for instance, as the marring effect which a bridge across the entrance to Habana harbor would have upon its enviable and universally admired beauty and picturesqueness—into which I need hardly enter.

The friends of this bridge may cite, in attempted refutation of these arguments, the examples of bridges in other ports of the world; but they can hardly point to a bridge across the very entrance of a harbor of the commercial and naval importance of Habana.
It has been suggested that under the Constitution and laws of Cuba the Executive could not legally annul this concession. I understand, however, that it is a well-established principle of Spanish, and consequently of Cuban, jurisprudence that the Government may at any time revoke or annul a contract or concession, not alone for infraction of any of its terms or conditions by the party or concessionaire but merely on grounds of public interest or convenience; for the rule is universally accepted that a State may rectify its errors even at the cost or inconvenience of another, because, as distinguished from the errors of a private party, they affect the general public interest. The fact that in this case the concession was authorized by an act of Congress should have little or no bearing; for, after all, the Congress merely authorized the Executive to exceed a power already vested in him by the laws in force; that is to say, to grant, in addition to the bridge concession, certain public lands desired by the concessionaire. Thus viewed, this special act of Congress is no more mandatory than the Law of Waters or other general laws ordinarily applicable.

I avail [etc.]

A. M. Beaupré.

The Secretary of State to the American Minister.

No. 210.]

DEPARTMENT OF STATE,
Washington, March 13, 1913.

Sir: The Department has received your No. 637 of February 26, 1913, regarding the Habana-Casa Blanca bridge project. You will endeavor to keep yourself informed of the developments in the matter and promptly advise the Department.

I am [etc.]

For Mr. Bryan:

Huntington Wilson.

The Secretary of State to the American Minister.

No. 231.]

DEPARTMENT OF STATE,
Washington, June 11, 1913.

Sir: The attention of the Department has been called to a concession granted by the late administration to Messrs. Waddell and Harrington for the building of a bridge across the harbor at Havana. This matter was brought to the attention of this Government last spring, and both the War and Navy Departments set forth objections, which you will find in the records of your office.

It was not claimed at the time that the Platt Amendment gave this nation a right to do more than protest against such an enterprise, but the Department acted upon the theory that anything deemed inimical to the interests of both Governments was a proper subject for a frank exchange of official opinions, and expressed itself with great emphasis against the wisdom of permitting the construction of the bridge at the point mentioned in the concession.

Should the subject come up again for consideration you are at liberty to inform the Cuban Government that the objections urged by the War and Navy Department [Departments] under the last administration are still entertained by those Departments; and that this Government, while it does so with great respect and with a full recognition of the Cuban Government’s independent rights, considers it
its duty to reiterate very earnestly the objections then urged to an enterprise so manifestly inconvenient and threatening seriously and injuriously to affect the navigation and defense of the port of Havana and still wishes to express the confident hope that the Government of Cuba will find it consistent with the interests of Havana and the welfare of Cuba and with its own obligations to discontinue it.

I am [etc.]

W. J. Bryan.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN LEGATION,

Habana, June 23, 1913.

The President of Cuba advises me that in conformity with the views of the Cabinet he will soon send a message to Congress recommending repeal of the law of December 21, 1910. He adds that our views regarding the bridge matter are shared by the present Government of Cuba.

Beaupré.

The Secretary of State to the American Minister.

No. 21.]

DEPARTMENT OF STATE,

Washington, December 1, 1913.

Sir: Referring to previous correspondence regarding the concession granted by the Cuban Government to Messrs. Waddell and Harrington for the building of a bridge across the harbor at Habana, you are instructed that the Department desires you to inform the Cuban Government that, in view of the changes that have been made in the plans of this work for the express purpose of fully meeting the objections raised by the War and Navy Departments of this Government against the plans previously submitted by Messrs. Waddell and Harrington, which changes have caused these Departments to modify their objections, this Government feels constrained to withdraw its opposition to the project as heretofore communicated to the Cuban Government by the Legation, thus placing the matter in the position which it occupied prior to the exchange of communications between the two Governments relative to the original plans of the concessionaires.

I am [etc.]

W. J. Bryan.

The American Minister to the Secretary of State.

No. 52.]

AMERICAN LEGATION,

Habana, December 22, 1913.

Sir: I have the honor to report that, having in pursuance of the Department’s instruction of December 1 communicated to the For-
eign Office in the terms of the instruction the withdrawal of the Department's previous objections to the project of building a bridge across Habana harbor, I have received a note from the Cuban Secretary of State on this subject. After reminding me that by Decree No. 341 of June 30, 1913, the President had declared null and void President Gómez's Decree No. 180 of March 10, 1911, embodying the original concession, as well as the Amendatory Decree No. 1076 of December 12, 1912, he states that "the President maintains in full force and effect his aforesaid decree of June 30 last, because the same legal reasons which prompted its issue still exist, that is to say, because the two decrees so annulled were flagrant violations of the law, embodying substantial defects in the concession."

I have [etc.]

WILLIAM E. GONZALES.

CAIBARIÉN-NUEVITAS RAILROAD PROJECT—ATTITUDE OF THE UNITED STATES.

File No. 837.77/58a.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase—Extract.]

DEPARTMENT OF STATE,
Washington, March 5, 1912.

Information received by Department forecasts an attempt to renew a project of British capitalists to rush through Cuban Congress concession for railroad from Nuevitas to Caibarién.

You will earnestly urge upon the President the desirability of postponing final action on this bill sufficiently to allow the fullest investigation and consideration, emphasizing the burden it would impose on the Cuban Treasury in favor of capital which is neither American nor Cuban.

WILSON.

File No. 837.77/59.

The American Minister to the Secretary of State.

[Telegrams—Paraphrases.]

AMERICAN LEGATION,
Habana, March 6, 1912.

The President promises to see that consideration of the railroad bill is deferred to the next Congress, the present one being about to adjourn.

BEAUPRÉ.

File No. 837.77/69.

AMERICAN LEGATION,
Habana, May 14, 1912.

If the Department wishes to object to the Nuevitas-Caibarién railway matter the Legation should be instructed at once as the project is now under discussion in Congress.

BEAUPRÉ.
The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 14, 1912.

The Department cannot give its approval to the railroad project in its present form if its understanding thereof is correct.

WILSON.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 22, 1912.

You may inform the Cuban Government of the substance of Department’s telegram of May 14. As the railroad project is now framed, the Department feels that it is probably an improvident strain on the Cuban Treasury.

KNOX.

The American Minister to the Secretary of State.

No. 273.

AMERICAN LEGATION,
Habana, May 25, 1912.

Sir: Referring to Department’s telegram of May 22, in regard to the proposed Nuevitas-Caibarién railway, I have the honor to enclose copies of communications received from the President and Secretary of State of Cuba in reply to an informal note from me, communicating the substance of the Department’s telegram of May 14th.

I have [etc.]

A. M. BEAUPRÉ.

[Inclosure 1—Translation.]

The President of Cuba to the American Minister.

PRESIDENT’S OFFICE,
Habana, May 23, 1912.

MY DEAR MR. MINISTER: When we talked some time ago about the subject matter of your note of today’s date you were unable to explain why I should oppose the bill for the construction of the Caibarién-Nuevitas railroad as now passed by Congress. The constitution requires that when the President of the Republic vetoes an act he shall return it to the Congress with his reasons for not sanctioning it. I can find no ground whatever for disapproving an act of Congress providing for a work which is regarded as so beneficial to the country. I regret, therefore, that I am not able to please you, and beg that you will so inform the Department of State of the United States.

Yours very truly,

JOSÉ M. GÓMEZ.
Inclusion 2—Translation.}

The Secretary of State of Cuba to the American Minister.

No. 515.

DEPARTMENT OF STATE,
Habana, May 25, 1912.

DEAR MR. MINISTER: I received with much pleasure your note of the 23d instant inclosing copy of a personal note of the same date addressed by you to the President of the Republic, in regard to the bill pending in Congress for the construction under subsidy of the Caibarién-Nuevitas railroad.

Undoubtedly there has, in my judgment, been an error in the statement contained in the note in question, that, as the Department of State of the United States now understands the circumstances, it cannot approve the bill in its present form; for bills pending in our co-legislative bodies become laws when passed by both bodies and approved by the President of the Republic, in whom alone the power is vested to veto them when he deems it appropriate; and therefore I cannot conceive that in the present legal status of the relations between Cuba and the United States any Cuban law, and much less any bill pending in our Senate or Chamber of Representatives, is at any stage pending the approval of the Department of State at Washington, or that it requires such approval to become effective.

Very sincerely yours,

Manuel Sanguily.

File No. 837.77/72.

The Chargé d'Affaires of Great Britain to the Secretary of State.

BRITISH EMBASSY,
Washington, May 31, 1912.

Sm: The Cuban House of Representatives has within the last few days approved the grant of a subsidy to the North Coast Railway Company (Compañía del Ferrocarril de la Costa Norte de Cuba) for the construction of a line from Caibarién to Nuevitas south of the Sierra de Bamburano. I understand that the Cuban Senate may be expected to approve this subsidy very shortly.

On the 29th of February last the Cuban Railway Commission finally approved plans submitted by the Cuban Central Railways Ltd. for a line between these same two points, but by a different route, namely north of the Sierra. In view of this fact, when the question of the grant of a subvention for such a line was first raised in Congress, the Cuban Central Railways addressed a petition to that body asking that this subvention should be granted to them as being the only company which had complied with the requirements of the present railway law, as proved by the certificate from the Railway Commission. It now seems however that the claim of the company is to be disregarded, although the route projected by them is apparently the more practical and although, moreover, they are prepared to build it without the grant of any subsidy.

Your Government has, I understand, already received full information through the American Legation at Havana, regarding the objections raised by the Cuban Central Railways to the proposed subsidy to the North Coast Railway Company. It is therefore unnecessary for me to enlarge upon those objections or to point out the very grave prejudice which would result to the interests of that line, should the present proposal be carried into effect.

His Majesty's Government regard the action of the Cuban Congress as constituting a serious infringement of existing rights and
under these circumstances feel themselves obliged to enter a strong protest against the unfair treatment of British interests and capital which appears to be contemplated by the Government of that Republic. His Majesty's Minister at Havana has accordingly been instructed to make such a protest.

I am at the same time directed by His Majesty's Principal Secretary of State for Foreign Affairs to acquaint you with these instructions and to express the hope that your Government will be willing to support the action of His Majesty's Government and to assist them in securing an equitable settlement of the present difficulties.

I have [etc.]

A. M itchell Innes.

File No. 837.77/74.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

American Legation,
Habana, June 4, 1912.

The Senate passed the Nuevitas-Caibarién railroad bill on June 3.

Beaupré.

File No. 837.77/74A.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

Department of State,
Washington, June 8, 1912.

The British Embassy represents that it is informed that the Cuban Central Railroads, Limited, a British company, has been granted the concession for the Caibarién-Nuevitas road and has begun construction; and that the rival project is simply a swindling scheme directed against the British company's vested interests.

Knox.

File No. 837.77/75.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

American Legation,
Habana, June 9, 1912.

I am convinced that the British Embassy has not been correctly informed. No vested rights in the country between Nuevitas and Caibarién belong to the Cuban Central, the company's interest lying wholly west and south of Caibarién. The "concession" referred to is merely the Railroad Commission's approval of plans for constructing a road from Nuevitas to Caibarién along a route chosen by the company, north of the hills. Any company or individual may upon fulfilling the simple requirements of the law at any time obtain such
approval for any number of roads from Nuevitas to Caibarién. The Cuban Central has not actually begun building, but has only broken ground, in order technically to set up this contention when it became evident that the bill would certainly pass. The Cuban Central people did not originate the project but became interested in it after the rival company had formulated it and a bill had been presented in Congress. They have merely been rival suitors for the subvention, but insisting that the road should be constructed northward of the hills as far as Morón through a narrow valley settled and occupied by an American railroad which has not received a subvention. Congress, keeping in mind the principal purposes of subventions, chose almost unanimously the route south of the hills, where the country was unsettled and needed development, in preference to the northern route through country already developed. The Cuban Central people have said that they do not want the southern route, because, on account of costly construction, the venture would be an unprofitable one. Their purpose, apparently, in drawing plans for the northern route, filing them with the Railroad Commission, and then breaking ground, has been to influence Congress into adopting that route.

Beaupré

The No. 837.77/75.

The Secretary of State to the Chargé d’Affaires of Great Britain.

No. 1529.]

Department of State,

Washington, June 14, 1913.

Sir: I have the honor to acknowledge your note of the 31st ultimo in which you state that the Cuban House of Representatives has approved the grant of a subsidy to the North Coast Railway Company of Cuba and that His Majesty's Government regards this action as an unjust infringement of the existing rights of the Cuban Central Railways, Limited, a British company, and has accordingly instructed His Majesty's Minister at Habana to enter a strong protest.

In reply to your suggestion that the Government of the United States support the action of His Majesty's Government on behalf of the Cuban Central Railways Company, and referring to the several conferences between the Embassy and officers of the Department, I regret to inform you that the Department under the circumstances does not see its way clear to take the action desired.

I may say at the outset that upon its information it has been the Department's view that the merits of the respective pretensions of the British company and the North Coast Railway Company have constituted an open question. For example, it may be observed that from a report received from the American Legation at Habana in April last there appeared to be at least a serious doubt as to whether the British company's claim of priority was, under the facts and the applicable provisions of Cuban law, sustainable. In this view of the matter and in view of the further fact that it has been represented that the North Coast Railway Company, though a Cuban corporation, will be substantially an American enterprise, the action desired has appeared to be open to misconstruction and to place this
Government on the surface of the matter at least in the embarrassing position of taking sides with a British company in a controversy with American interests, the merits of which are, at best, still to be determined. This difficulty has been further intensified by the controversy between the two companies as to the route to be adopted, in which connection petitions have been addressed to the American Legation at Habana by a number of American citizens who own and are operating railroads in the territory proposed to be traversed by the British line, protesting against the selection of the route chosen by the British company as detrimental to the interests and welfare of their properties.

Finally, I may say that the Department’s view of the facts indicated above would seem to be verified and its conclusions fully warranted by its latest information in the matter from the American Legation at Habana. Following the conference on the 7th instant between yourself and officers of the Department, the American Legation was instructed by cable to report on the present situation in the light of your information that the concession for the Caibarién-Nuevitas railway had actually been given to the Cuban Central Railways, Limited, and that this company had commenced construction and that the rival project was an enterprise directed in bad faith against the British company’s vested interests. In response to this instruction, the Department has received a cable report from the Legation, of which the following is a paraphrase:

[Here follows the telegram of June 9 from Mr. Beaupré.]

Accept [etc.]

P. C. Knox.

File No. 837.77/84.

The British Ambassador to the Secretary of State.

British Embassy,
Washington, November 27, 1912.

Dear Mr. Secretary: I have the pleasure to enclose to you here-with a copy of a letter¹ which I have received from Sir William Lawrence Young, the Chairman of the Cuban Central Railway Company, whom I introduced to you yesterday. The letter sets forth the grounds of complaint which his Company have against the action recently taken in Cuba by the Government there which they conceive to be very injurious to the interests of this important British company, whose undertaking is of high standing and the operations of whose railroads are rendering great service to Cuba.

It will be very good of you if you will take the matter into consideration and cause enquiries to be made into the statements which are set forth in the letter on behalf of the company and if, when you are satisfied of the strength of the case which the company makes, you will take such steps in the matter with a view to the interests of justice and right dealing and for the safeguarding of the legitimate interests of the company as you may think fit.

I am [etc.]

James Bryce.

¹Not printed.
The British Ambassador to the Secretary of State.

British Embassy,
Washington, November 30, 1912.

Dear Mr. Secretary: With reference to my letter of November 27th I have the pleasure to enclose herewith copy of a further letter 1 which I have received from Sir William Lawrence Young, the Chairman of the Cuban Central Railway Company. The letter encloses certain further information 1 regarding the complaint of his company which was omitted by mistake from the enclosures in his former note.

I shall be grateful if you will take this further information into consideration in dealing with the case.

I am [etc.]

By direction of the British Ambassador:

Eustace Percey.

The British Chargé d'Affaires to the Solicitor of the Department of State.

British Embassy,
Washington. 2

Dear Mr. Clark: The Ambassador asks me to send you the enclosed further letter 1 from the Chairman of the Cuban Central Railway giving additional information with reference to the recent concession granted to the North Coast Railway Company. Mr. Bryce wishes me to express the hope that this letter with its enclosures will be taken into consideration in the investigation which the State Department is now undertaking.

Yours sincerely,

A. Mitchell Innes.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

Department of State,
Washington, December 4, 1912.

The complaint of the Cuban Central Railway Company against the Nuevitas-Caibarién project has been brought to the Department's attention by the British Embassy, accompanied by a request for this Government's investigation and for such action as the disclosed facts may warrant. It is alleged in the documents submitted by the Embassy that: (1) The decree accepting the proposal of the North Coast Company is illegal because it violates rights of the Cuban Central Company already possessed; provides in an illegal manner for the payment of the subvention; makes the award contrary to the law relating to bids; and ignores the proper formalities in mak-

1 Not printed
2 Not dated; left with the Solicitor by Sir William Lawrence Young, December 2, 1912.
ing awards for lines other than the Nuevas Caibarién. (2) The award to the North Coast Company was financially and economically unwise because the subvention was at an essentially higher figure than was asked by the Cuban Central Company, which, moreover will build the line without any subvention whatever if given reasonable time; under the bid and award the North Coast Company may build the road with Government money and then withdraw the road from public service and make it a private road; the North Coast Company is newly organized and not heretofore engaged in railroad building and operation, whereas the Cuban Central Company is a successful going concern; and the conclusion that the Cuban Central project was the better one is corroborated by technical reports to that effect by the Inspector General of Railroads and by the Secretary of Public Works, which were ignored by the President in making the award. (3) According to the best information received by the Cuban Central the North Coast promoters have private assurances from a high Cuban official that the Cuban Government will undertake to guarantee the several million of bonds that the North Coast Company proposes to float, if such a guaranty become necessary in order to sell the bonds.

The legality or illegality of the Executive's action in awarding the contract is not one for this Department at this time; but you will observe that (2) and (3) above involve the use of the Government's funds and the possible increase of the Government's obligations; they are accordingly of immediate interest to this Government, in pursuance of the policy outlined in the Department's instruction No. 123 of August 15, 1912.1

You will bring these allegations to the serious attention of the President of Cuba, pointing out that a proper disposition to avoid future trouble in the matter would seem to require his renewed and serious consideration of the question, in order that no action shall be taken either involving the Government of Cuba in future difficulties or constituting an improvident use of national funds and credit or increasing the national financial obligations. You will at the same time avoid giving the impression that this Government is espousing either project as against the other.

Investigate carefully the allegations made by the Cuban Central Company and report.

KNOX.

File No. 837.77/87.

The American Minister to the Secretary of State.

No. 530.] AMERICAN LEGATION,

Habana, December 5, 1912.

SIR: Referring to your telegraphic instructions of December 4, I have the honor to enclose herewith copy of a note which I have today addressed in pursuance of your instructions to His Excellency the President of the Republic of Cuba.

I have [etc.]

A. M. BEAUPRÉ.

CUBA.

[Inclosure.]

The American Minister to the President of Cuba.

No. 431.]

American Legation,
Habana, December 5, 1912.

Your Excellency: In pursuance of telegraphic instructions from my Government I have the honor to inform Your Excellency that the Embassy of Great Britain in Washington has called the attention of the Department of State of the United States to the complaint made by the Cuban Central Railway Company in relation to the proposed Calbarien-Nuevitas railroad, and has requested that my Government make an investigation of the matter and take such action as the facts disclosed should warrant.

In the documents submitted by the British Embassy with the complaint it is alleged:

First. That executive decree accepting the North Coast Company’s proposal is illegal for the reason, among others, that it violates rights already possessed by the Cuban Central Company under early charters; that payment of the subvention contrary to existing law is provided by it; that the considerations under the terms of the law calling for bids upon which the award was based were not within the legal cognizance of the Executive; and that without proper formalities awards were made for lines other than the Calbarien-Nuevitas.

Second. That, financially and economically, the award to the North Coast Company was unwise and inexpedient, for the reasons, among others, that the subvention awarded the North Coast Railway Company was essentially higher than that asked by the Cuban Central Railway; that without any subvention whatsoever the Cuban Government [sic] will build the road if given a reasonable time; that by terms of the bid and award the road may be built with Government money by the North Coast Railway Company and then, by withdrawal from the public service, become a private road; that, whereas the Cuban Central Railway is a concern successful and of established standing the North Coast Railway is a new concern never before having built and operated railways; and that technical reports made by the Inspector General of Railroads and by the Secretary of Public Works bear out the fact that the Cuban Central was the better project, these reports when making the award being ignored by the President.

Third. That according to the best information received by the Cuban Central, private information has been given by a high Cuban official to the promoters of the North Coast Railway that several millions of bonds which the North Coast Company proposes to float will be guaranteed by the Government of Cuba should such guaranty be necessary for selling the bonds.

While the question of the legality or illegality of executive action in awarding the contract does not appear to be one for my Government at this time, the foregoing points second and third, involving as they do the use of Government funds and the possible increase of the Cuban Government’s obligations, are, pursuant to the policy outlined in Mr. Gibson’s note 1 addressed to Your Excellency on August 20, 1912, concerning the Zapata Swamp Concession, of immediate interest to my Government.

I am instructed to bring these allegations seriously to the attention of Your Excellency, and to point out that a proper disposition to avoid future trouble with reference to this matter would appear to require that Your Excellency give the question renewed and most serious consideration, in order that no action shall be taken which will either involve the Cuban Government in future difficulties or will constitute an improvident use of national funds and credit or an increase of national financial obligations. While earnestly pointing out the above considerations to Your Excellency, I desire to avoid giving the impression that my Government is espousing either project as against the other.

I avail [etc.]

A. M. Beaupré.

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1 For. Rel. 1912, pp. 314-316.
The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, December 9, 1912.

MY DEAR MR. AMBASSADOR: I have the honor to acknowledge the receipt of your note of November 27th, enclosing a letter to you from Sir William Lawrence Young, the Chairman of the Cuban Central Railway Company, concerning the complaint of his company against the action recently taken by the Cuban Government in the matter of the North Coast Railway concession. I have the pleasure of informing you that the substance of this letter, as well as of the enclosures of Lord E. Percy's note of November 30th and of Mr. Mitchell Innes's note left with Mr. Clark on the 2d instant, has been communicated by telegraph to the American Minister at Habana with instructions to investigate and report on the matter.

I am [etc.]

P. C. KNOX.

The American Minister to the Secretary of State.

No. 538.]

AMERICAN LEGATION,
Habana, December 11, 1912.

Sir: Referring to previous correspondence in regard to the Cai-barién-Nuevitas railroad, I have the honor herewith to transmit copy and translation of a note dated the 10th instant which I have received from the Cuban Secretary of State in reply to a note which, in pursuance of the Department's telegraphic instruction of December 4, I addressed to the President and of which a copy was transmitted to the Department with my despatch No. 530 of the 5th instant.

I have [etc.]

A. M. BEAUPRÉ.

[Inclosure—Translation.]

The Cuban Secretary of State to the American Minister.

DEPARTMENT OF STATE,
Habana, December 10, 1912.

MR. MINISTER: With reference to the note dated the 5th instant which your excellency addressed to the President of the Republic, and of which you kindly sent a copy to this Department, I am instructed by the President of the Republic to reply thereto in his name as follows:

In the first place, the receipt of the note in question could not but have surprised the President, inasmuch as it was written at the instance of a friendly nation which has a duly accredited representative here, whose representations have always been heeded as far as possible, as in respect of this same matter when his request for postponement of the date of the subasta for the Nuevitas-Cai-barién railroad concession was granted; and, moreover, because the only point which can be regarded as worthy of attracting the attention of your excellency's Government is as a matter of fact the most groundless, that is to say the statements attributed to a high Cuban official whose name is not mentioned and who in making them disregarded the fact that they are clearly repugnant to our laws, statements which are, even cursorily examined, so extravagant
CUBA.

["contrarias a la realidad"] that they need not have caused a moment's anxiety to your excellency's Government.

The British Embassy alleges, as the first ground of its complaint on behalf of the English company, that the latter had vested rights under prior concessions; but this statement is not correct, inasmuch as the Cuban Central cannot claim any concession of the new line to which the subasta referred; that company merely filed with the Railroad Commission a project for building a railroad from Nuevitas to Caibarien to the north of the Bamburaao hills, and the Commission reported that said project accorded with the necessary technical requirements, which did not vest any right in the company; indeed, the company itself withdrew the project in question upon the announcement being made that Congress had authorized a subvention for a line south of the hills, in which action the company was prompted by the purpose of taking part in the subasta and by the wish to remove any objection to the admission of its bid. Hence the Cuban Central, which took part in the subasta as a bidder and previous to that had asked for a postponement of the subasta, cannot now reasonably allege the incompetence of the Executive. The proposals of the Cuban Central were carefully examined and duly compared with those of the North Coast Railway Company, in the resolution by which the construction of the proposed railroad was awarded to the latter company.

It is also alleged that lines other than the Nuevitas-Caibarien line were granted without due formalities, reference being apparently had to the Camagüey-Santa Cruz del Sur railroad, in disregard, however, of the fact that the construction of this line was authorized by the act of July 5, 1903, and of the fact that article 6 of that act provides: "that after one year from the date this act becomes effective the Executive may contract for the construction of the railroad lines enumerated" (there were others in addition to the line mentioned) "if solicited by any person or company." Hence in conformity with the provisions of that law other lines were previously contracted for upon the mere application of some company without any protest in consequence thereof, and in the case referred to in the note the North Coast Company made application for building the Camagüey-Santa Cruz del Sur Railroad. That company was the only one that had applied therefor during the six years in which the offer was open without a taker, and there was no cause or reason for refusing said company the concession merely because application was made simultaneously for another line.

Up to this point I have referred to the first paragraph of the document embodying the complaint of the British Embassy. As to the second paragraph, in which it is alleged that the award is economically unwise because the subvention granted to the North Coast Company is higher than that asked for by the Cuban Central, it should be borne in mind that the first thing that the Cuban Government did was to make a comparative examination of the two proposals that had been formulated, as a result of which, as set forth in the resolution, the Cuban Government observed that the proposal of the North Coast Company offered, in free transportation and the creation of new sources of taxation, effective and permanent advantages to the State of far greater import than the saving of one thousand dollars per kilometer offered by the proposal of the Cuban Central.

The Cuban Central now states that it will build the line without subvention if given a reasonable time in which to do it. This offer is unwise and cannot be taken into consideration. When that company went to the subasta, among the proposals that it made and which were the only ones that the Cuban Government could take into consideration, there was none offering to build the line without a subvention; and since the subasta has been held and the concession awarded, it is impossible to admit such offers, because they are too late and are inapplicable, particularly when the offer is qualified by the condition called "a reasonable time", which is in itself a very elastic phrase that might readily give rise to constructions contrary to the text of the law which, in providing for the subvention of the line and directing an immediate subasta, sought to avoid delay in its construction and did not leave the question of time to the convenience of any company.

It is added that the concessionaire may build the railroad with the subvention and thereafter withdraw it from public service, which is a manifest error because such an outcome is absolutely impossible inasmuch as the concession was granted under the specific and unavoidable condition that the railroad should be for public service, to which may be added the fact that obligations of the company have been accepted giving the railroad that character.
The allegation of the Cuban Central that it is a going concern while its competitor, the North Coast Company, is a new concern and has never operated railways, is an argument that per se could not very well be taken into consideration. The Cuban Government could not take such circumstances into account but could only examine the respective advantages offered and the guarantees given in assurance of the fulfillment of the obligations to be contracted; particularly because, if such an argument were admitted as valid, the necessary consequence would be the institution of a kind of privilege—in every aspect unconstitutional and unjustifiable—in favor of companies already established, which would result in closing the doors to new companies, national or foreign, which might, to the advantage of Cuba, seek to invest capital in the construction of railroads.

It is also incorrectly stated that the Executive failed to take into due account the technical reports favorable to the Cuban Central, when as a matter of fact he did take them so carefully and intelligently into account that, finding the proposal of the North Coast Company too ample and favorable in relation with the bond prescribed by the law, the Executive demanded that that company double the amount of its bond.

It is stated in the third paragraph that, according to advices received from the Cuban Central, a high official of Cuba has promised that the Government of Cuba would guarantee the bonds issued by the concessionary company if necessary for their sale. It is a pity that so gratuitous an imputation should be made in respect to the Government of Cuba by a company of presumably reputable and sound standing, for such a thing is contrary to our laws, according to which Congress alone is competent to place obligations upon the Treasury, and Congress itself is competent only upon compliance with the provisions of the Constitution prescribed for that purpose, and also taking into account the prohibitions contained in the Appendix to the Constitution.

It is therefore clear that no official, however high his rank, can guarantee future obligations of that kind; and up to the present neither the Government nor anyone in this country has any knowledge of such a financial operation, which would, as stated, require the intervention of Congress, whose deliberations are public; there would in any event therefore be sufficient opportunity for observations which are now groundless and unreasonable.

The Government of the United States in transmitting through diplomatic courtesy the note in question states that in its eyes the allegations contained in the second and third paragraphs are alone of any importance, and in the opinion of the President [of Cuba] they are without foundation or reason, for the reasons herein given.

I avail [etc.]

MANUEL SANGÜELY.

File No. 837.77/94.

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Washington, January 20, 1913.

Sm: I am informed by His Majesty’s Principal Secretary of State for Foreign Affairs that the Cuban Central Railway has presented to the President of Cuba a petition requesting that the concession recently given to the North Coast Railway Company may be cancelled and that it may be granted to the petitioners.

His Majesty’s Minister in Habana has been instructed to strongly support this petition and I am requested to inform you that if after examination of the whole matter you consider that it is one in which the influence of the United States Government could be usefully exerted with a view to securing to the petitioners that which it is believed the justice of their case requires, it is the hope of His Majesty’s Government that you may see fit to take action in that direction.

I have [etc.]

JAMES BRYCE.
CUBA.

The Secretary of State to the American Minister.

[Page 193.]

DEPARTMENT OF STATE,
Washington, February 8, 1913.

SIR: I enclose a copy of a note from the British Ambassador at
is capital with which he forwards to the Department a copy of a
position addressed by the Cuban Central Railway to the President
Cuba requesting that the concession recently granted to the North
ast Railway Company should be canceled and that it might be
anted to the petitioners.
Mr. Bryce states that His Britannic Majesty's Minister at Habana
been instructed to support strongly this petition, and he asks at
Government will exert its influence with the Cuban Go-
ment to secure to the petitioners the justice which they believe
s case requires.
You will again bring the matter to the attention of the Cuban
reign Office and point out that the positive and seemingly well-
ined attitude assumed by Great Britain in this matter appears to
ure that the questions involved receive the most serious consider-
on by the Cuban Government.

I am [etc.]

P. C. KNOX.

The Secretary of State to the British Ambassador.

[Page 1749.]

DEPARTMENT OF STATE,
Washington, February 8, 1913.

EXCELLENCY: I have the honor to acknowledge the receipt of your
ote of the 20th ultimo [etc.]
I have the honor to say in reply that the Department has for-
ded a copy of your note and a copy of the petition to the Ameri-
Minister at Habana, and has instructed him to bring the matter
in to the attention of the Cuban Foreign Office and to point out
the positive and seemingly well-defined attitude assumed by
at Britain in this matter appears to require that the questions
olved should receive the most serious consideration by the Cuban
Government.

I have [etc.]

P. C. KNOX.

The American Minister to the Secretary of State.

[Page 626.]

AMERICAN LEGATION,
Habana, February 17, 1913.

SIR: Referring to my despatch No. 579, of January 3rd,\(^1\) and to
er correspondence, in regard to the Caibarién-Nuevitas railroad
ession, I have the honor to submit herewith a concise resumé

\(^1\) Not printed.
of the entire question. The many reports made on this matter by
the Legation from time to time have attained such bulk as to render
their consideration a matter of much time and trouble. I venture,
therefore, to submit the following statement of facts for the infor-
ination of the Department, believing that it may be found helpful
as offering in convenient form a thorough presentation of the essen-
tial points at issue.

An act of July 5, 1906, committed the Government of Cuba to the
policy of subsidizing new railroad construction in Cuba. This act
provided for a recurrent appropriation of $500,000 per annum for
the purpose, and authorized the Executive to grant subventions in a
maximum amount of $6,000 per kilometer for the construction of
twelve lines enumerated in the act.

Between the ports of Caibarién and Nuevitas lies a vast region of
virgin country, said to be incomparably rich in hardwood timber,
ores and agricultural and grazing lands, which, except for the nar-
row valley north of the Bamburanao range, has never been settled
or developed for lack of transportation.

The claims of the region in question were either overlooked or
ignored by Congress in 1906, or were not adequately pressed by the
interested communities. The need for the line was nevertheless felt
and was remittently discussed, but nothing practical seems to have
been accomplished until Mr. J. M. Tarafa and associates recognized
the opportunity and procured the introduction of a bill in the House
of Representatives, at the session which ended in February, 1911
(reintroduced April 28, 1911), for the construction, under the terms
of the act of July 5, 1906, of a line from Caibarién via Morón to
Nuevitas.

Just east of Caibarién begins a range of mountains comprising the
Sierras de Bamburanao, Meneses and Jatibonico, and extending in
an easterly direction up to Jatibonico river. Between this range
and the sea on the north there is a fair and fertile valley averaging
some ten or twelve miles in breadth, watered by numerous streams
rising in the mountains. This valley, as far down as the Jatibonico
river, has long been under cultivation; several sugar-mills are in
active operation; and the transportation facilities, while perhaps
susceptible of improvement, satisfactorily answer present needs; the
coast is indented by numerous minor ports, reached by cartroads
from within and by small coasting craft from without, and the val-
ley is traversed from a point very near Caibarién, at the western
end, to Mayajigua, at the eastern end, by several connecting narrow-
guage roads largely owned and controlled by the North American
Sugar Company. These roads, originally built by the several sugar
mills in the valley for their private plantation service, were welded
into a connected system and made a public service railroad, or com-
mon carrier, under terms of the railroad law of Cuba, which require
that it shall within a given time be rebuilt on the standard guage;
and construction into Caibarién is either contemplated or has ac-
tually been undertaken.

Here, then, we have, on one hand, a public railroad, largely if not
entirely owned by American interests, built without State aid and
which must, under the terms of its charter as a common carrier, be
practically rebuilt (for conversion of gauge) without State aid; and,
on the other hand, a bill in Congress contemplating the construction
of a subsidized railroad from Caibarién to Nuevitas which would,
through about one-fourth of its length, parallel the former. The
interests thus menaced promptly bestirred themselves, and brought
sufficient public opinion to bear upon representatives from Santa
Clara to induce Tarafa to abandon, perhaps reluctantly, the idea of
traversing the valley in question, and to make a détour to the south
of the range, although the country was not only undeveloped but
the cost of construction would, on account of topographical condi-
tions, be considerably greater. Accordingly an amendment was in-
troduced providing specifically that the Caibarién-Nuevitas railroad
should be built via Morón and south of the Cordillera (range) de
Bambarrao, thus relieving the existing railroad north of the range
of the threatened unfair competition. The wisdom of this amend-
ment is at once obvious: the region south of the range is not only
greater in extent and breadth, but, unlike that to the north, is un-
settled and undeveloped; and it would be a waste of public money
and unfair to existing interests for the Cuban Government to sub-
sidize, under the circumstances, a railroad along the northern route.

In the meantime, the Cuban Central Railways had filed with the
Railroad Commission, on May 10, 1911, a petition for permission
to make preliminary surveys for a railroad from Caibarién to
Nuevitas via Morón. Permission was duly granted, and the Cuban
Central Railways made their surveys, and filed on January 31 and
February 4, 1912, "definite plans, profiles, etc.," of the proposed
line, which were in due course approved by the Railroad Commission.
The project of the Cuban Central contemplated a route throughout
the valley north of the range, necessarily paralleling the railroad of
the North American Sugar Company and associated interests.

When the amendment was presented prescribing the southern
route, the Cuban Central, which apparently had not theretofore
taken any active part in the progress of the bill, took a hand in the
matter, and by all manner of means at their disposal set out to
force Congress to adopt the route (north of the range) which they
had selected. At this time representations were made to the Depart-
ment that were untenable and without foundation in fact. It is not
necessary to examine these representations at this time, for the mat-
ter has reached a more advanced stage where new grounds and con-
tentions have arisen. However, as illustrative of the tenor of the
representations made to the Department in the first stage of the con-
troversy, the Cuban Central contended, in effect, that—inasmuch as,
after a bill had been introduced and was being discussed in Con-
gress for the construction of a certain railroad with State aid, they
had, in anticipation of the needs of the community and of the coun-
try at large, surveyed a certain route which was duly approved by
the Railroad Commission—the Congress was precluded from pre-
scribing any route other than the precise route called for in their
plans, and consequently that the subvention could be granted to
no one other than themselves! The record is clear that they sought
to have the Department believe that the approval of their plans by
the Railroad Commission conferred upon them an exclusive conces-
sion by competent authority to build a railroad between Caibarién
and Nuevitas; while they knew perfectly well, from their intimate knowledge of the railroad law and long experience, that the Railroad Commission could at any time approve any number of such projects, and that such approval in no case constituted a "concession" in the accepted sense. They alleged the infringement of "vested rights" which did not exist and which they knew very well could not under the circumstances exist. They alleged also that they had commenced the construction of the line, which was shown to be without foundation. And all this, not because the Congress contemplated or proposed even by inference to grant the subvention to a particular company or to favor any particular interest, but merely because that body was considering whether in the public interest the railroad it was about to subsidize should run to the south or to the north of a certain mountain range!

The contentions of the Cuban Central did not prevail. The Congress passed, and the President approved on June 5, 1912, an act reading in pertinent part as follows:

Article 1. The following paragraph is hereby added to article 1 of the act of July 5, 1906, published in the Gaceta Oficial of the Republic on that date:

"(13) A line connecting the ports of Calcarin and Nuevitas, passing through the town of Moron and to the south of the Bamburanao range."

Article 2. The Executive shall invite proposals of companies desiring to build the railroad, and shall award it by subasta to that company which makes the best propositions; but the subvention shall not exceed the amount prescribed in the act of July 5, 1906.

On July 12, 1912, five weeks after the enactment of this law, an Executive decree issued, and was published in the Gaceta Oficial of the 15th, inviting proposals, to be filed not later than July 30th, for the construction of the railroad in question. The Cuban Central Railways objected that the time allowed prospective bidders to prepare and file their proposals was unreasonably short, and furthermore that no formality was prescribed to govern the opening of proposals, thus possibly affording an unfair advantage to any bidder which might enjoy illicit official favor. Accordingly a second decree issued (dated July 24, 1912, and published in the Gaceta of the 27th), calling for sealed proposals to be filed in the Department of Public Works up to 2 p. m., September 30, 1912; and providing that all proposals should be opened at that hour in the office of the Secretary of Public Works and in the presence of bidders. In the preamble to this decree it is expressly announced that no specifications beyond the general requirements of the Railroad Law and the Act of July 5, 1906, and the special requirements of the Act of June 5, supra (as to route, amount of bond, etc.), could in the nature of the case be formulated for the guidance of prospective bidders, and consequently of the granting authority in choosing between proposals, but that such prospective bidder should within these general confines make his own terms and conditions.

The subasta took place at the appointed time. But two proposals were filed, namely, by the Ferrocarril de la Costa Norte de Cuba.
and the Cuban Central Railways. The former company offered to build the railroad with a subvention of six thousand dollars per kilometer (the maximum amount authorized), while the latter asked for but five thousand dollars. The money difference between the two proposals, considering only the amount of the subvention, is roughly $300,000 (not, as claimed by the Cuban Central, $592,000). The proposal of the Compañía de la Costa Norte included, however, an elaborate plan of direct and related development, which the President believed to offset, in immediate and eventual value and advantage to the region and to the country at large, the apparent saving of $300,000 in the amount of the subvention. Examination and analysis of what may be called the collateral propositions of the Compañía de la Costa Norte convincingly bear out this belief; but they need not be examined in detail here, for the Cuban Central have apparently never attempted to destroy this argument except by the contention that as those propositions did not directly concern the announced object of the subasta, they could not, whatever merit they might otherwise have, legally be taken into consideration by the President.

This contention is the essence of the Cuban Central's protest; the other numerous contentions, mostly of a minor, and in some instances of a trivial, character, all hinge upon it and serve only to beseech the real issue.

The answer to this question of competence must be sought in the terms of the acts of July 5, 1906, and June 5, 1912. The former is a general act governing railroad subventions; and the latter (the text of which is in pertinent part quoted above) is a special act authorizing the construction with State aid of the Caibarién-Nuevitas railroad under the general terms of the former act and certain additional and particular terms of the latter.

The act of 1906 authorizes the Executive to "enter into contracts with one or more companies ... without the necessity of subasta, for the construction and operation, in the order named," of twelve railroads enumerated (article 1). This was amended by the later act of 1912 in so far as it required (article 2) the holding of a subasta.

The act of 1906 further provides (article 6) that when "two or more individuals or companies offer to build and operate any of the railroads enumerated above, the Executive shall give the preference to that individual or company whose plans and other technical and economic conditions are, in his judgment, the most advantageous to the general interests of the Republic." In the absence of any more specific provision in the act of 1912, or in any other law, governing the conduct of the subasta and method of award, or placing re-

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1 The Cuban Central made alternative propositions, one of which was to utilize their existing line from Caibarién to Salamanca, 86 km. to the west, and thence to build into Zuluta, 20 km. to the east, without subvention; thus traversing 56 km. in a roundabout direction in order to reach a point due south of Caibarién, distant 29 km. or less. This "free line" of 56 km. is reckoned a saving to the State at $5,000 per km., whereas it could not possibly, however regarded, represent a saving except as to the actual distance between Caibarién and Zuluta. The other proposition (and obviously the more acceptable) was the concession to be awarded to the Cuban Central was to build from Caibarién to Zuluta directly and thence to Nuevitas, applying the subvention to the whole distance. The real effect of the former proposition would be to make the contemplated real estate marginal and unnecessary to the extension of the Cuban Central's existing lines out of Sagua and consequently to make the line into Caibarién merely a branch with Zuluta as a junction, thus defeating, in spirit at least, the purpose of the act of Congress. (The Minister's footnote.)
strictions upon what may be considered "economic conditions... advantageous to the general interests of the Republic", the best judgment of the Executive must necessarily prevail without limitation (Art. 78, paragraph 1, Constitution of Cuba). If he chooses so to regard collateral railroad development in Camaguey, the building of sugar mills, and establishment of a bank for aiding colonizers, and other considerations, he would seem to be acting well within his powers. Had the Congress desired to limit his choice to the proposal contemplating the lowest subvention, it would have done so in terms; as it is, the intent cannot even be inferred.

Moreover the proposal of the Cuban Central is vitiated by the failure upon their part fully to observe the route prescribed by Congress in the act of June 5, 1912. The prescribed route is "south of the Cordillera de Bamburanao," clearly meaning the "cordillera," (range) of mountains comprising the Sierras de Bamburanao, Meneses and Jatibonico. The modified route adopted by the Cuban Central after the passage of the act differed from the original (northern) route only in that the single Sierra de Bamburanao is detoured to the south, and the original route is entered through the break between the sierras de Bamburanao and Meneses, and is thence followed down to Morón. The route of the rival company is to the south of the mountains all the way, and is the route clearly contemplated in the act. The Cuban Central claim that "Cordillera de Bamburanao" as used by the Congress is a misnomer, because no such "cordillera" is shown on any map or other authoritative record of the region, each sierra being given a different name. The custom in Cuba and elsewhere is to refer to a range of mountains collectively, when they have no collective name and each group has its own name, by the name of the first component sierra or group; hence the range of mountains between Caibarién and the Jatibonico river is commonly called "Cordillera de Bamburanao," although each sierra is shown on maps with a different name, viz: Sierra de Bamburanao, Sierra de Meneses and Sierra de Jatibonico. The act was drafted by congressmen from the region acquainted with topographical names, and they undoubtedly used the word "cordillera," advisedly and with the full intent of reference to the range of three sierras named above. This is very clear from the controversy that arose in Congress concerning the selection of a route for the proposed railroad. The Cuban Central deliberately sought to defeat this clear intent of Congress that this line should be built entirely to the south of the mountains. Their line consequently parallels the line of the North American Sugar Company and associated interests through the greater part of the length of the latter. In this connection I invite the Department's attention to my No. 148, of March 13, 1912, transmitting a copy of a letter from the President of the North American Sugar Company. It was the representations of this American company that first induced me to make an examination of this phase of the project.

I have [etc.]

A. M. Braupré.
The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,  
Washington, February 18, 1913.

A request has been received from Martin W. Littleton that action on the Department's instruction to you No. 193 of February 8 be delayed until a hearing on the contentions of the North Coast Railway Company can be had by the Department. You will therefore suspend action until further instructed.

Knox.

The American Minister to the Secretary of State.

No. 627.)  
AMERICAN LEGATION,  
Habana, February 20, 1913.

SIR: Referring to the Department's instruction No. 193 of the 8th instant, concerning the Caibarién-Nuevitas railroad concession, and the Department's telegram of February 18 on the same subject, I have the honor to report that the petition of the Cuban Central Railways, dated December 28, 1912 (of which a copy ¹ was enclosed with the above-mentioned instruction), was duly considered and formally denied by President Gómez; that the British Minister in a recent note to the Cuban Foreign Office requested reconsideration of this decision, the annulment of the concession, and its grant to the Cuban Central Railways; and that this note, too, has been answered.

The British Minister's note concluded with the ominous observation that in his opinion "the Cuban Government could hardly expect the British Government to be content with leaving the matter as it now stands, or to consent to a denial of that justice and fair treatment to which the Cuban Central Railways are entitled." In its reply, the Cuban Foreign Office, after regretting the "unseemly tone and forceful language" of Mr. Leech's note, states in effect that the protest of the Cuban Central Railways has already received full and careful consideration at the hands of the Cuban Government, whose decision is predicated upon "a strict observance of the law and the most upright principles of justice"; that the matter is now in the courts upon suit of the Cuban Central Railways; and consequently that the Administration could not under any circumstances take further action in the premises. As evidence that this matter has been considered by President Gómez personally I may add, upon unquestionable authority, that the note of the Foreign Office is based upon a draft in his own handwriting.

Under the circumstances, the Department's instruction would be of no avail for the purposes intended.

I have [etc.]  

A. M. Beaupré.

¹ Not printed.
The Secretary of State to the British Ambassador.

DEPARTMENT OF STATE,
Washington, February 25, 1913.

EXCELLENCY: Referring to my note to you of the 8th instant in which I informed you [etc.] I have now the honor to inform you that before this instruction could be carried out a request was received by the Department on behalf of the Compañía Ferrocarril de la Costa Norte de Cuba that further action in this matter be postponed until the contentions of that company in opposition to the petition of the Cuban Central Railway had been heard.

This request was complied with and an opportunity has now been given to the representatives of the Compañía Ferrocarril de la Costa Norte de Cuba to present its contentions in regard to the questions under consideration and upon a careful reexamination of the subject it has become evident that the controversy between these two rival companies is not of a character which requires this Government to give a preference to either one as against the other. The instructions to the American Minister in Cuba, therefore, with reference to the presentation, in compliance with your request, of the copy of the petition above mentioned to the Cuban Government will conform to this view.

I have [etc.]

P. C. KNOX.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 26, 1913.

Department’s February 18. The contentions of the North Coast Railway Company have been heard by the Department. Upon a careful reexamination of the questions involved it has become evident that this company’s controversy with the Cuban Central Railway is not of a character that requires this Government to give preference to either company as against the other, and the Department has today so informed the British Ambassador, who was also informed that the Department’s instruction to you, in regard to presentation to the Cuban Government of the petition mentioned in Department’s instruction of February 8, will conform to this view.

Therefore you will disregard said instruction of February 8. You will, however, bring the matter therein mentioned to the attention of the Foreign Office, pointing out that in the view of the Department the controversy between the rival companies is not of a character requiring this Government to take the side of either party as against the other.

KNOX.
The British Ambassador to the Secretary of State.

No. 49.] BRITISH EMBASSY, Washington, February 27, 1913.

Sir: I have the honour to acknowledge the receipt of your note of the 25th instant in which you inform me that owing to representations made to you by the Cuban North Coast Company, the United States Minister in Havana has been instructed to suspend action on the instructions previously sent to him.

These instructions were, as you informed me in your note of the 8th of February, to the effect that Mr. Beaupré should bring the matter again to the attention of the Cuban Foreign Office, and should point out that the positive and seemingly well-defined attitude assumed by Great Britain in this matter appeared to require that the questions involved should receive the most serious consideration by the Cuban Government.

Action on such instructions, the purport and effect of which were, as was understood from your note of February 8th, to convey to the Cuban Government the need for careful investigation of a grave question before final action was taken, would not seem to be prejudicial to the position of any parties having a legitimate and honest claim to have its interests considered and justly treated by the Cuban Government and it is with regret that I have to report to my Government the alteration which it has been thought fit to make in your instructions to the United States representative in Havana. I understand that His Majesty's Government has addressed a communication to the American Embassy in London upon the subject, and I cannot but express the hope that you will think fit upon further consideration to allow the instructions to be presented so as to intimate the advice of your Government that no action tending to create vested interests should be now taken, but that the matter should be reserved without prejudice until the coming in of a new President in Cuba who may be expected to deal with it in an impartial spirit.

I have [etc.]

JAMES BRYCE.

The Secretary of State to the British Ambassador.


EXCELLENCY: I have the honor to acknowledge the receipt of your note of February 27th last, referring to the matter of the petition addressed by the Cuban Central Railway to the President of Cuba requesting that the concession recently granted to the North Coast Railway Company should be canceled and that it might be granted to the petitioners.

The Department has today instructed the American Minister at Habana to take up the subject with the British Legation at that capi-

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tal with a view to reaching some common understanding upon the facts of the case, about which there seems to be considerable difference of opinion.

I have [etc.]

P. C. KNOX.

The Secretary of State to the American Minister.

DEPARTMENT OF STATE,

Sir: Referring to the Department's No. 193 of February 8 last and subsequent correspondence in regard to the petition addressed by the Cuban Central Railway to the President of Cuba requesting that the concession recently granted to the North Coast Railway Company should be canceled and that it might be granted to the petitioners, I enclose a copy of a note from the British Ambassador at this capital who expresses the hope that this Department will think fit, upon further consideration, to allow the instruction to you, above referred to, to be communicated to the Cuban Government.

The Department desires you to take up the subject with the British Legation in Habana with a view to reaching some common understanding upon the facts of the case about which there seems to be considerable difference of opinion.

I am [etc.]

P. C. KNOX.

The American Minister to the Secretary of State.

[Excerpt.]

AMERICAN LEGATION,
Habana, March 15, 1913.

Sir: I have the honor to report that in pursuance of the Department's unnumbered instruction of the 3rd instant, I conferred with my British colleague, Mr. Stephen Leech, in regard to the Caibarién·Nuevitas railroad matter.

Our discussion seemed to indicate that there was no substantial difference between us as to the facts and Mr. Leech admitted that the facts relating to the points now in controversy were correctly stated in my report to the Department, although we differed radically in our deductions; and he gave it as his opinion that the question now was purely one of construction, which should be referred to and decided by legal authorities. So it seems that we have "a common understanding of the facts in the case," and the "considerable difference of opinion" is not as to the facts. We do not and cannot agree as to the decision to be reached from a consideration of these facts, notwithstanding which I am still firmly convinced that my views heretofore expressed to the Department are correct. * * *

I did not attempt to argue these contentions with Mr. Leech, for they have nothing to do with the essential facts, and Mr. Leech frankly said it would be futile.
With reference to the concluding portion of Mr. Bryce's note to the Department, dated February 27th, in which it is suggested that the United States Government might intimate to the Cuban Government that no action should now be taken "tending to create vested interests," in order that the matter might be "reserved without prejudice" for the consideration of the new Cuban Administration, I have the honor to submit that as a matter of fact the question is now before the courts, and in the circumstances no action on the part of the Cuban Government is conceivable tending to create any vested interests not already derived from the actual award of the concession to the North Coast Company.

Mr. Leech's knowledge of the questions involved is far from thorough, and he finally stated that it would be necessary for him to request the attorneys of the Cuban Central to prepare a memorandum for him covering the points at issue. He proposes to send a copy of this memorandum to the British Ambassador in Washington. He has promised to bring me this statement as soon as possible; and I shall then have the honor of reporting further to the Department.

I have [etc.]

A. M. Beaupré.

File No. 887.77/105.

_The American Minister to the Secretary of State._

[Extract.]

No. 662.]

AMERICAN LEGATION,

Habana, March 22, 1913.

_Sir: Referring to the last paragraph of my despatch No. 653 of the 15th instant, in regard to the Caibarién-Nuevitas railroad concession, I have the honor to report that my British colleague has allowed me to read the memorandum prepared for him by the lawyer of the Cuban Central Railways and which he told me he should send to his Government and to the British Ambassador in Washington to be submitted by the latter to the Department._ * * *

_Despite Mr. Leech's previous admission to me, as reported in my despatch No. 653, that there was no longer any substantial difference between us as to the essential facts, this memorandum states that there "seems to be a wide divergence of opinion as to the facts" between us. I could not, however, discover in the memorandum any reference to a specific instance wherein we differ in any essential point of fact. * * *

Mr. Leech's memorandum also brings up again the question of what Congress intended by the term "Cordillera de Bambiranao," in connection with which, it is alleged, the Cuban Central attempted by an ill-taken technicality to evade the obvious intent of the act. This point is fully discussed in my despatch No. 626, of February 17, 1913, and requires no further comment.

Although the Legation has heretofore relied entirely upon itself to investigate and prepare its reports upon this matter, I have, since Mr. Leech announced that he would have a memorandum prepared by the lawyer of the Cuban Central to refute my previous arguments, thought it expedient to have Mr. Tarafa's lawyer prepare a memo-
randum for this Legation refuting specifically the British contentions. I have, therefore, the honor to enclose two memoranda—one referring to the specific contentions of Mr. Leech as stated in my despatch No. 653 (page 3), and the other to exceptions taken by the Cuban Central Railways predicated upon the alleged infringement by the President of article 103 and other articles of the Reglamento de las Secretarias del Despacho,—and venture to recommend their careful perusal and consideration by the Department.

I have [etc.]

A. M. Beaupré.

File No. 837.77/106.

The British Ambassador to the Secretary of State.

British Embassy,
Washington, March 31, 1913.

Sir: His Majesty's Minister in Havana informs me that the United States Minister has shewn to him a recent report which he sent to the State Department on the subject of the Caibarién-Nuevitas Railway, which in the opinion of Mr. Leech did not quite accurately set forth the circumstances of the case as understood by him.

Mr. Leech has therefore prepared a report which he has shewn to Mr. Beaupré and a copy of which he has forwarded to me dealing fully with the case.

I have the honour to forward to you a copy¹ of this report, which, as you will see, gives a somewhat different account of the situation from that which might have been gathered from Mr. Beaupré's despatch.

I have [etc.]

James Bryce.

File No. 837.77/106.

The Secretary of State to the American Minister.

No. 228.] Department of State,
Washington, May 8, 1913.

Sir: Referring to your despatch No. 622,² dated March 22, 1913, and to other correspondence regarding the Nuevitas-Caibarién Railway subvention, you are informed that under date of March 31, 1913, Mr. Bryce, at that time British Ambassador, transmitted to the Department a report on this matter, prepared by Mr. Leech.

It appears, from your despatch under acknowledgment and from the note of the British Ambassador above mentioned and its enclosure, that the contentions urged by the British Government involved questions of a legal nature pertaining to the validity of the proceedings heretofore taken in the matter, which the Government of the United States does not feel called upon to discuss with the Cuban Government at the present time, inasmuch as this Government

¹ Not printed.
² Should be 662.
relies upon the Cuban Government to give these questions such careful and deliberate consideration as will insure their determination with due regard to law and justice.

I am [etc.]

For the Secretary of State:

JOHN B. MOORE.

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The Secretary of State to the British Ambassador.

No. 24.]

DEPARTMENT OF STATE,
Washington, May 24, 1913.

EXCELLENCY: I have the honor to acknowledge the receipt of Ambassador Bryce’s note of March 31, 1913, in which he states [etc.].

In reply I have the honor to say that on the 8th instant the Department sent an instruction to Minister Beaupré, in which, after acknowledging the receipt of a despatch from him on the subject, dated March 22, 1913, and informing him of the receipt of Mr. Bryce’s note, it said:

“It appears, from your despatch under acknowledgment and from the note of the British Ambassador above mentioned and its enclosure, that the contentions urged by the British Government involved questions of a legal nature pertaining to the validity of the proceedings heretofore taken in this matter, which the Government of the United States does not feel called upon to discuss with the Cuban Government at the present time, inasmuch as this Government relies upon the Cuban Government to give these questions such careful and deliberate consideration as will insure their determination with due regard to law and justice.”

I have [etc.]

For the Secretary of State:

JOHN B. MOORE.

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SCURRILOUS AND LIBELOUS NEWSPAPER ATTACKS ON THE AMERICAN MINISTER AND THE SECRETARY OF LEGATION AT HABANA; IMMUNITY OF CONGRESSMEN FROM PROSECUTION FOR CRIME; ATTITUDE OF THE UNITED STATES.

File No. 837.011/12.

The American Minister to the Secretary of State.

[Telegrams—Paraphrases.]

AMERICAN LEGATION,
Habana, February 6, 1913—1 p. m.

In an article covering the full front page of yesterday’s issue, the newspaper “Cuba” made a specific accusation that Gibson and I, through the levying of blackmail and graft, have enriched ourselves in various local enterprises. The article is unspeakably scurrilous, of an inflammatory character and calculated to incite to further violence against the members of this Legation. Failure to proceed against this
newspaper for past offenses has encouraged it to increase the violence of its attacks. The Cuban Government has repeatedly expressed readiness to prosecute libelous publications upon the request of the Legation, and I strongly recommend that I be authorized to request the Cuban Government to take action in this case for criminal libel.

Beaupré.

File No. 837.911/13.

American Legation,
Habana, February 6, 1913—2 p.m.

This afternoon's edition of "Cuba" contains another front-page article giving what purports to be a statement of the exact manner in which the National Bank of Cuba keeps the funds I have secured through corruption. It also announces that Gibson and I are to be investigated by order of the Department.

Beaupré.

File No. 837.911/16.

The American Minister to the Secretary of State.

No. 619.]

American Legation,
Habana, February 6, 1913.

Sir: Referring to my telegrams of February 6 (1 p.m. and 2 p.m.) in regard to abusive articles concerning the Legation published in the newspaper "Cuba," I have the honor to transmit herewith enclosed copies and translations of the two articles in question.1 Judging from the tenor of the articles already published, it is to be presumed that they will be followed by others of a similar nature. The Department is in possession of the facts concerning past offenses of this newspaper in its attacks upon Mr. Gibson last August and upon the President at a later date. I therefore deem it superfluous to enter into a discussion of the matter, but venture to confirm my earnest recommendation already made that I be authorized to present a formal request to the Cuban Government that action be taken against this newspaper for criminal libel.

I have [etc.]

A. M. Beaupré.

File No. 837.911/15.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

American Legation,
Habana, February 7—4 p.m.

This afternoon's edition of "Cuba" devotes its entire front page to abusive articles and alleged Washington despatches concerning its attack on this Legation. The editor, Oscar Soto, declares his intention to introduce this afternoon in the House of Representatives a resolution calling upon the President for copies of all notes from this Legation to the Cuban Government since the formation of the

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1 Not printed.
Republic; copies of all warnings and admonitions addressed by me to the Government, and statement of the reasons therefor; and a detailed statement of Mr. Gibson's acts and conduct in relation to collection of the Reilly claim. Commenting on newspaper statements to the effect that the Cuban Government might be asked to deport its editors, "Cuba" declares that its one responsible manager cannot be deported as he is a Cuban citizen, and strongly intimates that he cannot be prosecuted because of his Congressional immunity.

Beaupré.

File No. 837.911/14.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 7, 1913.

Request at once of the Cuban Government immediate, active and adequate prosecution of the persons guilty of the scurrilous and libelous statements made against the personnel of the Legation.

Knox.

File No. 837.911/17.

The American Minister to the Secretary of State.

[Extract.]

AMERICAN LEGATION,
Habana, February 10, 1913.

Sir: Referring to my despatch No. 619 of the 6th instant and to other correspondence in regard to the libelous campaign being conducted by the newspaper "Cuba" against this Legation, I have the honor to report more recent developments in the situation as follows:

A few minutes after the receipt of the Department's telegram of February 7, Dr. Patterson, Sub-Secretary of State, called at the Legation and I took occasion to impress upon him with great earnestness the gravity of the present situation and the imperative necessity for the Cuban Government to proceed with energy and effectiveness in the prosecution of those responsible for the libelous and slanderous statements concerning the personnel of this Legation. Dr. Patterson expressed great indignation at the character of the articles which have been published in "Cuba," and stated that both the President and Secretary of State had been shocked upon reading these articles and were prepared to do anything within their power to see that proper reparation was made. Dr. Patterson added, however, that there would appear to be some doubt as to how effective prosecution would be in view of the fact that the newspaper was protected by the parliamentary immunity of a congressman who was paid a salary, not for any work done on the paper, but simply for the protection gained by printing his name at the head of the editorial column. In response to this I pointed out very bluntly that there was no need to allow any such defiance of the laws to interfere with the proper course of justice; that congressional immunity was very clearly intended to cover nothing more than the official acts of a congressman and not to protect
libelous and blackmailing newspapers from the consequences of their crimes.

I asked Dr. Patterson to say to the President for me that the leaders of the Conservative party had volunteered to instruct their congressmen to vote to allow the prosecution of this congressman, and that I was convinced, if he showed equally good feeling, he could, by the use of entirely legitimate and proper influence upon Liberal congressmen, insure a majority which would enable the Department of Justice to bring the guilty parties before the courts.

I immediately prepared a note (copy enclosed) which was delivered to Mr. Sanguily personally at 7 o’clock, making formal request for the prosecution of the responsible individuals in compliance with the Department’s telegraphic instruction.

* * * In conclusion I venture to express the belief that all elements of Cuban official life now realize the seriousness of the question and that both parties will cooperate to make the prosecution effective.

I have [etc.]

A. M. Beaupré.

[Inclosure.]

The American Minister to the Cuban Secretary of State.

No. 479.]

AMERICAN LEGATION,
Habana, February 7, 1913.

YOUR EXCELLENCY: I have the honor to transmit herewith enclosed copies of the afternoon edition of the newspaper “Cuba” of the 5th and 6th instant. Your excellency will observe that these papers contain outrageous and abusive attacks upon me and upon Mr. Gibson, the First Secretary of this Legation.

I am just in receipt of specific telegraphic instructions from my Government directing me to immediately bring this matter to the attention of your excellency’s Government with the request that it undertake without delay the adequate and active prosecution of the persons responsible for the scurrilous and libelous statements contained in these articles.

I cannot too strongly impress upon your excellency the importance which my Government attaches to prompt and effective action by the Cuban Government in response to this formal request.

I avail [etc.]

A. M. Beaupré.

File No. 837.911/18.

The American Minister to the Secretary of State.

[Telegrams—Paraphrases.]

AMERICAN LEGATION,
Habana, February 18, 1913.

The Cuban Government has assured me that proceedings against the newspaper “Cuba” are being energetically pressed, but the Government evades making direct statements. Yesterday I insistently requested a definite statement of the steps that have been taken, and I am just now in receipt of a note transmitting a report from the Prosecuting Attorney showing that nothing has been done except to take the declarations of certain members of the staff of “Cuba” as to what they know regarding the authorship of the libelous articles. Soto was requested to appear and depose, but did
not do so, alleging illness, although he has been attending to business and traveling about the island. No action can be taken against him until appeal to Congress has been made and granted. Eleven days have now elapsed without any such action and Congress may adjourn at any time. I respectfully recommend that the Department impress upon the Cuban Minister in unmistakable terms its real interest in prompt and effective action, and that it formulate, for presentation by this Legation to the Cuban Government, an expression of its views.

Beaupré.

File No. 837.911/19.

American Legation,
Habana, February 20, 1913.

Delay in prosecution is rapidly convincing newspapers that our attitude was mere bluff and that nothing will be done. Several papers publish sneering articles which, although they avoid personalities, are most insulting to the good faith of our Government from which, the newspapers intimate, they have nothing to fear.

Beaupré.

File No. 837.911/18.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

Department of State,
Washington February 20, 1913.

The following aide mémoire has been handed to the Cuban Minister, who has also had the views of the Department brought to his attention:

The Department of State to the Cuban Legation.

AIDE MÉMOIRE.

From reports received from the American Minister at Habana the Government of the United States notes with surprise that the Government of Cuba seems to be displaying apathy in the prosecution of those persons responsible for the recent scurrilous newspaper attacks on the personnel of the Legation.

It is with regret that the Government of the United States finds itself obliged to direct the attention of the Government of Cuba to this matter and to insist that the persons guilty of those attacks be adequately and speedily dealt with.

Department of State,
Washington, February 20, 1913.

Knox.

File No. 837.911/20.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

American Legation,
Habana, March 14, 1913.

Since the date of the Department's telegram of February 7 I have repeatedly urged definite action, in conferences with the President, Secretary of State, leaders of both parties and other officials. They
have promised to do whatever they can but there is manifest a pronounced disinclination to prosecute Soto. Three weeks ago, after long delay, request was made to Congress to permit prosecution, but the matter is being delayed on ridiculous pretexts. The committee to which the request was referred finally appointed one of its members to prepare a report. After several days delay he announced, yesterday, that he would have to be excused as he was not a lawyer and was therefore unfit for the work; and that, being a Liberal, any report unfavorable to Soto, a Conservative, would be construed as party hostility. It is announced that the committee will "probably" meet again in the course of a few days to consider the question and appoint someone else to prepare a report. Congress will probably adjourn in the course of ten days, and the matter is evidently being delayed in the hope that if in the meantime no action is taken prosecution can be indefinitely deferred. A campaign by Soto and his friends is being made in Congress and the press to create belief that it is unnecessary to permit prosecution as the new administration at Washington will drop the matter in pursuance of an absolute hands-off policy which is being industriously attributed to it. I have exhausted the means at my disposal in the hope of securing action without calling on the Department, but am now convinced that no action can be hoped for unless the Department makes known to the Cuban Government in unmistakable terms its expectation that effective means will be found for dealing immediately with the libelers of the Legation. If respect for the United States and its representatives here is to be maintained, it is essential that the wholesale libels to which they have been subjected for months past be brought to an end by vigorous insistence upon effective prosecution. Failure earnestly to press the case would give encouragement to the worst elements here in their efforts to create anti-American feeling, and would leave the Legation in a deplorable situation.

Beaupré.

File No. 837.911/22.

The American Minister to the Secretary of State.

No. 656.]

American Legation,
Habana, March 18, 1913.

Sir: Referring to previous correspondence in regard to the libelous attacks upon the personnel of this Legation by the newspaper "Cuba," I have the honor to transmit herewith enclosed, for the information of the Department, copy of a letter ¹ today received from Mr. Alexander W. Kent, an American attorney practicing in this city.

In this letter Mr. Kent expresses serious doubts as to the possibility of punishing those responsible for the libels in question; he withdrew to a large extent from the position taken in his letter to the Department of September 7, 1912,² written in regard to the newspaper attacks on Mr. Gibson at the time of the Maza assault, wherein he was optimistic as to the facility with which the guilty parties might be brought to justice.

¹ Not printed. ² For. Rel. 1912, p. 268.
In the last paragraph of his letter Mr. Kent states that the courts are free to arrest and indict Soto as soon as Congress adjourns, but expresses the belief that no Cuban judge would hazard such a step. The right of the courts to take such action is based on a provision of Article LIII of the Cuban Constitution which reads as follows:

Senators and representatives shall be inviolable as regards their expression of opinion or their votes given in the exercise of their duties. Senators or representatives may be arrested or indicted only by authorization of the body to which they belong, if Congress should be in session, except in the event of being caught in the act of committing some crime. In this case and in that of being arrested or indicted when Congress is not in session, report shall be made to the body to which they belong for such decision as it shall make.

In the event that Congress adjourns without taking action in this matter, as now seems highly probable, I venture to submit that we might with entire propriety insist that Soto be arrested and indicted during the recess in accordance with the clear provisions of the Constitution.

The strong anti-American elements in Cuba are now momentarily refraining from open personal attacks upon members of this Legation while awaiting with interest an indication as to whether the Department is inclined further to press this case. By vigorous action we can probably end once for all the vicious practice of using Congressional immunity as a cloak for common crimes, and thereby not only serve our own immediate purpose but also render an important and much needed service to individuals and business interests in Cuba which have, by the ridiculous scope accorded to Congressional immunity, been subjected to every form of extortion, blackmail and libel. On the other hand, any failure earnestly to press the matter at this time will mean a relapse into conditions worse than those from which we have hitherto suffered; for those elements now held in check by a wholesome fear of being brought to justice will construe any wavering in our announced purpose to prosecute as a license to indulge in unlimited abuse of American representatives here, secure in the belief that they can do so with impunity.

While by no means as positive as a few weeks ago, there is still a general hope and belief among those most interested that the new administration in Washington plans to let the lawless elements here run riot unrestricted, and the slightest encouraging sign would be taken as confirmation of this belief.

From my own careful observation (as stated in my telegram of March 14) I am convinced that it is the intention of those in authority to evade, by every possible means, the responsibility of bringing the Soto question to a direct issue. The reason for this determination may perhaps be found in the fact that there are now pending before Congress thirty-five or more requests to prosecute members of Congress for crimes committed in Habana Province alone. In spite of repeated assurances from the Speaker of the House of Representatives and from other high officials of the Cuban Government, I fully expect that the matter will purposely be delayed so that it may not reach a vote before the end of this session of Congress, which may be looked for not later than the 27th instant.

I have [etc.]

A. M. Beaupré.
The American Minister to the Secretary of State.

[Telegram—Extract—Paraphrase.]

AMERICAN LEGATION,
Habana, June 16, 1912.

The Cuban Government, desirous that I "should leave Cuba with only pleasant memories," prevailed upon Congressman Soto to make public retraction of his charges in a speech before the House. As this speech was not adequate or satisfactory, the Secretary of State induced the newspaper "Cuba" to make more definite retraction and apology. This was done by the "Cuba" of its own motion, and is very gratifying in that it shows a desire to do such justice as the Cuban Government is in a position to secure unaided. It does not of course dispose of the question of congressional immunity. However, in view of the short time remaining before my departure, I trust that I may not be instructed to press the matter further. Personally I am disposed to accept the action of the Cuban Government in the way it is intended, and drop the matter. The Department should understand, however, that the principle involved is far more serious and important than the incidental phase which has affected me. The real question is whether congressmen can abuse their constitutional immunity as a cloak for vulgar crimes, libel, blackmail and character assassination. Past and present abuse of this immunity constitute a real and constant menace to honorable men, to reputable business and to other diplomats who are not so well able to defend themselves as we are. The Cuban Government and the best business elements, both American and Cuban, have looked confidently to the Government of the United States to put forth its best legal and diplomatic talent to secure protection of decent men against the outrages of the press. I trust that the Department, for the good of Cuba, will exert its best efforts to put an end to the present shameful conditions.

Beaupré.


The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 19, 1912.

In view of your statements in your telegram of June 16 you are instructed not to press the matter further at present. The Department is giving it careful consideration and on your arrival in Washington will be glad to discuss it with you.

Bryan.

File No. 837.911/24.

The American Minister to the Secretary of State.

[Extract.]

No. 719.]

AMERICAN LEGATION,
Habana, June 27, 1913.

Sir: Referring to previous correspondence in regard to the libelous attacks upon Mr. Gibson and myself by the newspaper "Cuba," and
particularly to my telegram of June 16, I have the honor to transmit herewith enclosed copy and translation of an editorial from “Cuba” of the 13th instant, wherein the paper makes retraction of its charges. I have [etc.]

A. M. Beaupré.

[Inclosure—Translation.]

THE BEAUPRÉ-GIBSON “CUBA” INCIDENT.

OUR LAST WORD.

In view of the magnanimous reception which the press and public opinion have accorded to the speech delivered day before yesterday by Sr. Soto in the House of Representatives in regard to this incident, we wish, on our part, in just interpretation of the sincere and highminded intentions of our editor, to throw further light upon the matter and explain what really happened in this unpleasant affair. Our editor has, in fact, already set it forth, in his speech, in the following words:

I did not mean to wound the reputation of any person, nor to heap discredit upon any respectable representative accredited to our country; it could not occur to me, who fought on the fields of the Revolution and who am mindful of the timeliness of the assistance rendered us by the Americans in putting an end to the Revolution, to direct a wicked, cruel and unjustified attack against the representative of the American nation, which has always commanded our utmost respect. I attempted merely, in the heat of journalistic fray, to defend something that I regarded as sacred and to put a stop to a state of affairs that seemed to me harmful to the interests of my country.

The articles published in our columns upon this regrettable affair were in defense of Cuban interests thought to be jeopardized by the conditions to which Sr. Soto referred in his speech: by the frequent intervention of the American Legation in our affairs—often due, we must confess, to the misconduct of our internal policy.

Subsequently we have become convinced that our fears for the Cuban interests mentioned were unfounded and that the data that had been furnished us for their defense were untrue. We ought to have so stated at the time, in all sincerity; but, as our editor said in his speech:

Unfortunately, when that struggle was begun and a satisfactory solution might have been found, there arose, not the anger, rancor nor malevolence of those whom I attacked, but the untimely, malicious and interested intervention of a compatriot of ours, who sought to take advantage of this little incident, perhaps to reap pecuniary profit from any triumph over me that he might obtain.

In view of the campaign started against us by certain of our contemporaries, had we then come out and made the statement that we now make, advantage would surely have been taken of the occasion to attribute our conduct to fear; and we continued pitilessly to fight. The journalist, who must feel human weaknesses more intensely than others because he feels them publicly, in the presence of all his readers and of public opinion, prefers, rather than to have himself adjudged fearful of the consequences of what he writes, to face all dangers.

But now, with our liberty of action completely restored and the attitude of our editor—which is naturally the attitude of “Cuba”—viewed with justice and noblemindedness, first by the House of Representatives and afterwards by the press and the public, “Cuba” takes pleasure in making the foregoing statement and in recognizing the honorable character of Mr. Beaupré and Mr. Gibson, Minister and Secretary of Legation, respectively, of the United States in our country.

File No. 837.011/28.

The Secretary of State to the American Minister.

No. 25.]

DEPARTMENT OF STATE,
Washington, December 8, 1913.

SIR: Referring to previous correspondence regarding congressional immunity in Cuba, with particular reference to the supposed exemp-
tion of Cuban Congressmen from punishment for crime and particularly for the crime of libel, there are transmitted herewith copies of two despatches from the American Legation at Madrid which furnish information regarding the Spanish laws and practice in this matter.

Owing to the fact that it is commonly stated in Cuba that the Cuban Constitutional provisions on this subject and the construction given thereto are similar to those of Spain, it would be well for your Legation, should opportunity again arise, to invite discreetly the attention of the Cuban Government to the substance of the reports from Madrid transmitted herewith.

I am [etc.]

For the Secretary of State:

J. B. Moore.

PARTICIPATION OF A CUBAN DELEGATION IN THE DEDICATION OF THE NATIONAL MAINE MONUMENT IN NEW YORK CITY.

File No. 811.413 M28/2.

The Acting Secretary of State to the Secretary of the Navy.

DEPARTMENT OF STATE,

Washington, May 27, 1913.

Sir: Referring to this Department's letter of the 24th instant, I have the honor to advise you that the Department, having been informed through diplomatic channels that the Cuban Government will be officially represented at the inauguration of the Maine memorial on the 30th instant and has despatched the cruiser Cuba with one hundred troops of infantry and a military band to participate in the ceremonies, telegraphed to the Governor of New York the expression of its hope that the landing of the band and troops for the purpose of participating in the parade on the day mentioned will be agreeable to the State authorities, and it has requested the Secretary of the Treasury to instruct the Collector of Customs at the port of New York to extend the usual customs courtesies to the band and troops.

The Department is further informed that the Government of Cuba will be officially represented at the ceremonies by its Chargé d'Affaires at Washington, its Consul General at New York, the Commander of the cruiser Cuba, Congressmen Páez and Torralbas, and Colonel José Martí, Chief of Staff of the Cuban Army.

I have [etc.]

J. B. Moore.

File No. 811.413 M28/7.

The Legation of Cuba to the Department of State.

[Memorandum.]

VICECONSULADO ADSCRIPTO A LA LEGACIÓN DE CUBA,

WASHINGTON, D. C.

Cablegram received from the Secretary of State of Cuba appointment Señor Manuel de la Vega, Cuban Chargé d'Affaires, as Presi-

*Not printed.*
dent of the Commission to represent the Government at the unveiling of the Maine Monument. The commission consists of Colonel José Martí, representing the Cuban Army; the Commander of the cruiser Cuba, representing the Navy; Consul General of Cuba Mariano Rocafort; Señores Pazos and Torralbas, of the Cuban House of Representatives, representing Congress. The Congressional Committee will arrive tomorrow morning from Havana via Key West, and will be met by the Mayor of the City of New York and Consul General Rocafort, and it is understood that Governor Sulzer will also meet the Commission. The Army and Navy Commission will arrive on the cruiser Cuba tomorrow morning.

The Cuban Chargé will leave tomorrow afternoon at 3 o'clock and will stop at the Plaza.

A luncheon will be given by the Maine Monument Commission at the Plaza Hotel at 1.30 p.m. Friday, and at 3 p.m. the unveiling ceremonies will take place.

(Not dated; received May 28, 1913.)

File No. 811.413 M28/8.

The Secretary of State of Cuba to the Secretary of State.

[Telegram—Translation.]

HABANA, June 3, 1913.

Permit me to convey to you the satisfaction felt by all the official and social elements of the Republic at the brilliant and friendly reception of the representatives and forces of the Army and Navy of Cuba who attended the dedication of the Maine Monument in the City of New York. As your telegram to the authorities of the State and City of New York recommending most solicitously the reception of the Cuban Commission contributed without doubt to so cordial a demonstration, I beg you to accept the expression of the sincere gratitude of our President, Government and people.

TORRIENTE.

File No. 811.413 M28/8.

The Secretary of State to the American Minister.

No. 238.]

DEPARTMENT OF STATE,
Washington, June 19, 1913.

SIR: I enclose herewith a communication addressed to the Minister of Foreign Affairs of Cuba in acknowledgment of a telegram sent by him to the Secretary of State, expressing the gratitude of the President, the Government and the people of Cuba at the reception accorded to the Cuban representatives who attended the ceremonies incident to the dedication of the Maine memorial at New York City.

It is desired to have you hand the letter to the Minister.

I am [etc.]

For the Secretary of State:

J. B. MOORE.
FOREIGN RELATIONS.

[Inclosure.]

The Secretary of State to the Secretary of State of Cuba.

DEPARTMENT OF STATE,
Washington, June 19, 1913.

EXCELLENCY: I have had the honor to receive the telegram which you courteously despatched to me on the 3d instant, in which you were so good as to convey an expression of the gratitude felt by the President, the Government and the people of Cuba at the reception accorded to the representatives sent by your Government to attend the ceremonies incident to the dedication of the Maine monument at New York City.

The friendly action of the Government of Cuba in officially participating in these ceremonies was most highly appreciated by the Government of the United States, and I beg to assure you that the President and his associates in Government were greatly gratified to learn that the treatment received by the Cuban representatives was such as to warrant so cordial an acknowledgment.

I have [etc.] W. J. BRYAN.

File No. 811.413 M28/10.

The American Chargé d'Affaires to the Secretary of State.

No. 722.] AMERICAN LEGATION,
Habana, June 30, 1913.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 238 of the 19th instant, enclosing a letter addressed to the Minister of Foreign Affairs (Secretary of State) of Cuba, acknowledging a telegram sent by him in regard to the reception accorded the Cuban representatives to the Maine memorial ceremonies; and to report that I have transmitted the letter in question to Mr. Torriente.

I have [etc.] HUGH S. GIBSON.