ECUADOR.

SHELTER AS DISTINGUISHED FROM ASYLUM.

Mr. Tillman to Mr. Olney.

No. 29.]

LEGATION OF THE UNITED STATES,

Quito, September 1, 1895. (Received Sept. 24.)

SIR: I have the honor to inform you that since my Nos. 16, 17, and 25 on the political conditions, I have made no further reports—first, because there was nothing of a definite or decided character for me to report; and second, the State Department, by means of ocean cable and steamers, could have, and no doubt had, knowledge of the movements of Alfaro much earlier than I had, being separated from him by two armies and 100 miles of mountain roads without the means of telegraphing. I now report that on the 13th and 14th of August General Savasti, minister of war, in command of the Government forces near Riobamba, was defeated and his army, composed mainly of conscripts, was completely disorganized, and went, some to Alfaro, many to their homes, and a few returned to the capital, where, after a week of unsuccessful efforts to reorganize and increase the fighting force, the struggle was given up and the chief for the Government, minister of foreign affairs, Señor A. Rivadeneira, left for Colombia with his family on the morning of the 19th, carrying with him, it is said, about 100,000 sucre, which had been raised by the priests a few days previously for the purpose of organizing a force and preparing for the resistance of Alfaro at the gates of or within the city. The vice-president, the minister of finance, and other members of the cabinet remain in the city, some of them being in foreign legations and others at their own homes. The wife and daughters of General Savasti came to the house occupied by me on the night of the 17th of August, and are still here with my consent. General Savasti came on the following night, and remains here quite ill.

During the month preceding the flight of Mr. Rivadeneira, I refused all applications for an asylum, from the humble mechanic seeking to shun military duty to the richest merchant who was under suspicion of the Government. But since the flight of Mr. Rivadeneira and the abandonment of the public offices by other members of the cabinet, all the legations have been filled with women and children, boxes and trunks, especially during the 15th and 19th of August, when there was no Government—either municipal, provincial, or national—and when the streets were filled with men and boys firing the abandoned rifles of the dispersed troops of the Government.

Good order has prevailed since the 20th, under the municipal management of a friend of Alfaro—Señor Alban Mestanza, who has been named by the people as governor of the province of Pinchincha. General Savasti’s defeat and retreat was hardly known before he was
charged with treason and with selling the battle to Alfaro, but his associates in the administration did not make the charge, and no well-informed man, native or foreigner, believed that he could win with the army under his command. General Alfaro is still at Ambarto, but it is expected that a portion of his command will reach here to-morrow, and he will follow in a few days.

I beg leave to ask for such instructions as you may think proper to give me.

I am, etc.,

JAMES D. TILLMAN.

Mr. Olney to Mr. Tillman.

No. 31.]

DEPARTMENT OF STATE,
Washington, September 25, 1895.

SIR: I have received your dispatch No. 29, of the 1st instant, in which you report the collapse of the titular government at Quito and the dispersion of its members in anticipation of the occupation of the capital by the successful revolutionary forces of General Alfaro.

I note your statement that the family of the late minister of war came to your residence on the 17th of August seeking shelter, and that, at the date you write, they were still inmates of your house. You add that General Savasti himself joined them on the following night, and still remains your guest, quite ill. The shelter thus given by you to one of the prominent members of the overturned government, and as it appears similarly granted by other foreign representatives to the families of members of the late government, does not appear up to the time of writing to have been of the nature of asylum, as the word is properly understood by international authorities, there having been apparently no national or municipal government in the capital. Shelter under such circumstances was a mere act of humanity, unaccompanied by any assumption of extraterritorial prerogatives by you, or interference with any rights of legitimate government or sovereignty. This is quite distinct from the so-called right of asylum, which can logically only be exercised in disparagement of the rights of the sovereign power by withdrawing an accused subject from its rightful authority. The practice of this kind of asylum is not a right derived from positive law or custom; it is not sanctioned by international law, and can only find excuse when tacitly invited and consented to by the State within whose jurisdiction it may be practiced.

The Government of the United States has constantly declined to be bound by such questionable titles to accept its exercise, and has on many occasions and in positive terms condemned the usage and discouraged resort thereto by its representatives. In 1875, to select one among several examples, Mr. Fish instructed Mr. Cushing, then minister to Madrid, that—

The right of asylum, by which I now refer to the so-called right of a political refugee to immunity and protection within a foreign legation or consulate, is believed to have no good reason for its continuance, to be mischievous in its tendencies, and to tend to political disorder. These views have been frequently expressed, and, while this Government is not able of itself to do away with the practice in foreign countries, it has not failed on appropriate occasion to deprecate its existence and to instruct its representatives to avoid committing this Government thereto.

In 1884, answering a request of the German Government for the views of the United States as to the propriety of restricting the exercise of
an asylum in Haiti to the citizens or subjects of the sheltering State, Mr. Frelinghuysen wrote:

While indisposed from obvious motives of common humanity to direct its agents to deny temporary shelter to any unfortunate threatened with mob violence, it has been deemed proper to instruct them that it (the United States Government) will not countenance them in any attempt to knowingly harbor offenders against the laws from the pursuit of the legitimate agents of justice.

Your concluding request for instructions is presumed to relate to this incident of the shelter given by you to General Savasti and family. The foregoing citations will have sufficiently indicated the uniform rule of this Government to discontinue asylum in every form and to enjoin upon its agents the exercise of the utmost care to avoid any imputation of abuse in granting such shelter. It may be tolerated as an act of humanity when the hospitality afforded does not go beyond sheltering the individual from lawlessness. It may not be tolerated should it be sought to remove a subject beyond the reach of the law to the disparagement of the sovereign authority of the State.

Sections 46, 47, and 48 of the Department's printed personal instructions relate in terms to the extension of asylum to unsuccessful insurgents and conspirators. It seems to be very generally supposed that the case of a member of an overthrown titular government is different; and so it may be until the empire of the law is restored and the successful revolution establishes itself in turn as the rightful government competent to administer law and justice in orderly process. Until that happens the humane accordance of shelter from lawlessness may be justifiable; but when the authority of the State is reestablished upon an orderly footing, no disparagement of its powers under the mistaken fiction of extraterritoriality can be countenanced on the part of the representatives of this Government.

I am, etc.,

RICHARD OLNEY.

RECOGNITION OF DE FACTO GOVERNMENT.

Mr. Adee to Mr. Tilman.

No. 27.]

DEPARTMENT OF STATE,
Washington, September 6, 1895.

SIR: The Department has received a dispatch, dated the 17th ultimo, from our consul-general at Guayaquil, announcing the defeat of the Government forces by those of General Alfaro, and, in view of the uncertain condition of political affairs in Ecuador, thinks it well to advise you that intercourse for the disposal of current matters affecting American interests with the de facto authority administering the public affairs of the State with the general acquiescence of its people and controlling the machinery of government to that end, is in accordance with the traditional policy of this Government. (See Wharton's International Law Digest, vol. 1, sec. 70.) In accordance with that policy, it is for you on the spot to determine with sound discretion the responsible authority to which you are to address yourself. Any professed formalities of recognition should await the instructions of your Government, which may be sought and obtained by cable if necessary.

I am, etc.,

ALVEY A. ADEE.
Mr. Tillman to Mr. Olney.

No. 30.] LEGATION OF THE UNITED STATES, Quito, September 7, 1895. (Received Oct. 4.)

Sir: I had the honor in my dispatch No. 29, dated September 1, but which should have been dated August 31, to inform you of the flight of the minister of foreign relations and the abdication of the other cabinet officers, and that the municipal government was the only source of order and that a friend of Alfaro was civil and military chief.

Governor Alfaro entered the city on the 1st of this month with his army, and everything has been quiet. His course has been moderate and magnanimous. He yesterday notified General Savasti that he was at liberty to return to his own home, with the assurance that he should not be molested, but there is a disposition on the part of all parties, either from ignorance or prejudice, to attribute the act even of a half-drunken soldier to the Government in power. I hand you herewith a letter, copy of original and translation, from Louis F. Carbo, minister of foreign relations under Alfaro's régime, addressed to me, and my reply to the same.

I have to-day made a personal call upon General Alfaro, and found him easy and affable, having the appearance of a man of decided character. He impresses me as a man who is moved by the highest motives. He took occasion to express to me his admiration for the real republican character of the United States Government. I informed him that I had from time to time informed my Government as to the progress of events in this country.

I am, etc.,

JAMES D. TILLMAN.

[Inclosure in No. 30—Translation.]

Mr. Carbo to Mr. Tillman.

REPUBLIC OF ECUADOR, Guayaquil, August 29, 1895.

MOST EXCELLENT SEÑOR: On the 5th of August of the present year the people of Guayaquil proclaimed Gen. Eloy Alfaro Jefe supremo of the Republic of Ecuador and general in chief of the army. This popular proclamation was immediately seconded by all the provinces of the coast and by some of the interior of the Republic. As soon as General Alfaro arrived from abroad he informed his cabinet in this city, as it appears in the decrees and proclamations, which your excellency will see in the "official record," copies of which I have the pleasure of sending you with this note. The resistance which the Government, not recognized in the proceedings of the coast, offered to the expressed will of the country compelled the supreme chief to open a campaign against the interior of the Republic, but not without having first exhausted conciliatory efforts with commissioners of peace, whom he sent to Quito and Cuenca without results, on account of the obstinacy of those who attempted to exalt themselves above the national will, clearly and honestly manifested in the public press and in the military camps.

It was therefore necessary for the government of Guayas to appeal to arms to reduce to submission those who, working on the religious sentiment of the country, were engaged in sustaining a shadow of gov-
ernment, which was, in fact, but a mockery, and leaves behind it sad records. The victories obtained by our valorous army in the center and south of the Republic, the defection of the troops who sustained in Quito the expiring Government, the flight of some of the members of the cabinet, and the seeking of asylums by others in foreign legations, the proclamations, and the entry of our army into the capital, where the jefe supremo will be when this note reaches you, are circumstances more than sufficient to convince you that the Government which I represent, whose jurisdiction extends over the whole Republic, is in very truth the national Government, while the faction of fugitives who wander toward the north and will soon disappear no longer deserve to be taken into account. In the official record, to which I have referred your excellency, you will be able to inform yourself as to the policies and tendencies of this Government, as well as its actual residence in this city, as represented by the council of ministers charged with the executive power. The undersigned, being honored with the presidency of the council, has the satisfaction to assure your excellency that the new Government of Ecuador proposes to bind still further, if possible, the friendly relations of your country and ours.

Please accept, etc.,

LOUIS F. CARBO.

[Inclosure 2 to No. 36.]

Mr. Tillman to Mr. Carbo.

LEGATION OF THE UNITED STATES,
QUITO, SEPTEMBER 6, 1895.

SIR: I had the honor of receiving yesterday your communication of August 29, 1895. The narration of political events and military movements for the past three months is in accord with my own observation and information, and the conduct of General Alfaro since his entrance to the capital has been characterized by moderation and magnanimity. All the public offices of national rank have been abdicated by those to whom three months ago I presented my letter of credence from the President of the United States. I unite with you in the desire to strengthen still more, if possible, the friendly relations which have existed between Ecuador and the United States of America. I have informed my Government from time to time of the progress of events and General Alfaro’s movements, and will forward to Consul-General Dillard by your agent another dispatch to be mailed to the Secretary of State, from whom I must hear before I can further take action in my character as minister to Ecuador.

I am, etc.,

JAMES D. TILLMAN.

Mr. Olney to Mr. Tillman.

No. 37.] DEPARTMENT OF STATE,
WASHINGTON, NOVEMBER 6, 1895.

SIR: I have received your No. 30, of the 7th of September last, reporting the further progress of the successful revolutionary party of Ecuador toward the establishment of a Government and the administration of public affairs.

I am gratified that your personal relations with General Alfaro have been cordial and satisfactory. It was entirely proper that you should
testify to him the courtesy and good will suitable in your relations with
one who, with the apparent assent of the greater part of the population
of Ecuador, has been elevated to unopposed power. I note that in
acknowledging the communication of Señor Carbo, minister of foreign
affairs, you say that you must hear from the Secretary of State before
you can further take action in your character as minister to Ecuador.

The precedents by which the intercourse of the United States with
foreign nations is governed have established the clear right, under the
law of nations and treaties, to maintain, through its properly appointed
agents, communication with the de facto authorities of a foreign state
upon all matters affecting either this Government or its citizens, the
only limit to this proviso being that our agents are bound to avoid
interference in the domestic questions of the state. In the present
instance no such interference appears likely, or even possible, as the
government of General Alfaro is understood to be in full possession
of the machinery of the State. The right and propriety, therefore, of your
conducting all current relations with it in your capacity as minister to
Ecuador can not be questioned.

As to formal recognition, the practice of this Government has been
to enter into effective relations with the de facto government when it
shall have been fully established with the general consent of the people.
I assume from the communication of Señor Carbo that such a govern-
ment has been organized in Ecuador, although its style and title are
not stated by him. It would seem to be a provisional government, con-
trolled by a council of ministers, with General Alfaro as its president
and supreme head of the State. On this understanding, and being
satisfied that the new Government is in possession of the executive
forces of the nation, and administering the same with due regard for the
obligations of international law and treaties, you will enter into full
relations with it.

I am, etc.,

RICHARD OLNEY.

Mr. Tillman to Mr. Olney.

No. 48.]  LEGATION OF THE UNITED STATES,
QUITO, DECEMBER 6, 1895.  (RECEIVED JAN. 2, 1896.)

SIR: I have the honor to hand you herewith a copy of a letter
addressed to Hon. Ignacio Robles, minister of foreign affairs in Ecu-
ador, advising him of instructions from my Government to enter into full
diplomatic relations with the ministerial officers of the Republic of
Ecuador, represented in the matter of foreign affairs by himself.

I am, etc.,

JAMES D. TILLMAN.

[Inclosure 1 in No. 48.]

Mr. Tillman to Mr. Robles.

LEGATION OF THE UNITED STATES,
QUITO, DECEMBER 5, 1895.

SIR: I have the honor to inform you that on the 3d of this month I
received from the Secretary of State at Washington a communication
dated November 6, 1895, in which I am instructed to enter into full
diplomatic relations with the ministerial officers of the Republic of
Ecuador.
This communication is addressed to you, as minister of foreign affairs, to advise you of my instructions and to confirm the telegram from this legation on the 3d of this month addressed to the supreme chief. If any action on the part of your Government is necessary to give full force and effect to the official acts of the consul-general, Mr. Dillard, at Guayaquil, and to other officials of the United States, I beg leave to ask that your Government will give to them every facility and assistance which they may need in the discharge of their duties. Again expressing for your country, and the personnel of the administration of which you form a part, the friendliest feelings of my Government and myself,

I am, etc.,

JAMES D. TILLMAN.

[Inclosure 2 in No. 48.—Telegram.]

Mr. Tillman to General Alfaro.

LEGATION OF THE UNITED STATES,
December 3, 1895.

By letter dated November 6, 1895, I am directed by the United States Government to enter into full diplomatic relations with the ministerial officers of Ecuador, of whom you are the chief. Mr. Dillard, consul-general of the United States, unites with me in congratulating you and the Republic of Ecuador.

TILLMAN.

ARBITRATION OF TERRITORIAL CLAIMS.

Mr. Strobel to Mr. Gresham.

No. 24.]

LEGATION OF THE UNITED STATES,
Quito, December 18, 1894. (Received Jan. 14.)

SIR: After the rejection by the Congress of Ecuador of the Garcia-Herrera treaty for the settlement of the boundary question with Peru, reported in my No. 11, of August 2 last, negotiations were reopened at Lima in pursuance of the authority conferred upon the President. Colombia insisted upon taking part in a conference as an interested party, and her claim was allowed. Bolivia also made a like attempt, but it was ineffectual.

I now have the honor to report that the President of this Republic received yesterday a telegram from Mr. Castro, the representative of Ecuador, stating that the result of the conference was the signing of a treaty by the representatives of the three Republics, providing for the settlement by arbitration of their conflicting territorial claims.

The telegram also states that Spain is to be the arbitrator, and that the decision is to be made not merely upon the records and arguments of law, but also with due consideration for the natural claims of the contestants, which would seem to imply that the final judgment should concede to each country an outlet to the Atlantic by the Amazon and its tributaries.

I have, etc.,

EDWARD H. STROBEL.