THE REVOLUTION IN CUBA.

NEUTRALITY TOWARD CUBA—OPINION OF JUDGE CONKLING.

The True State of the Law—The Obligation of Neutrality—We should not Help Spain.

GENESEO, Livingston Co., N. Y., Dec. 19, 1869.

The Hon. Hamilton Fish, Secretary of State.

DEAR SIR: Remembering, as I always do with great pleasure, your uniform politeness to me in former days, I flatter myself you will not have altogether forgotten me, and that you will excuse the liberty I am taking in addressing you on a subject of very lively interest to me, and I doubt not also to you. I refer to the Spanish gunboats. I have just read Mr. Carpenter's capital speech on that subject, as reported in the *Globe* of the 16th inst. During the "Patriot war" in Canada it became my duty to examine our Neutrality act of 1818 with great care, and my attention has now again been earnestly turned to it by the Cuban insurrection; and I am constrained to say that my interpretation of it is in exact accordance with that insisted on by Mr. Carpenter. I frankly acknowledge, however, that, observing the view which seemed to be taken of the subject by the President and his Cabinet, and at length announced to the country by the President in his message, I became suspicious that I had overlooked some essential element of the problem, and accordingly began to entertain some doubts of the soundness of my convictions. But these doubts were entirely dissipated by reading Mr. Sumner's answer to Mr. Carpenter. I suppose it may be safely assumed that this is the best answer that can be given; but, with great respect be it said, I cannot but regard it as erroneous and altogether insufficient. Conceding Mr. Sumner's accuracy in tracing the new provisions of the act of 1817 (embodied in the act of 1818) to the insurrections of the Spanish continental colonies, it is wholly unwarrantable to assume that the sole purpose of the act was to provide for those cases, or at most for them and future cases *exactly* like them. "Now," says Mr. Sumner, "the practical question is, whether these words were introduced originally for a *specific purpose*," &c. But the act is wholly silent as to any such purpose, and it is a simple violation of the great settled canons of statutory construction to *assume* it upon "historic" grounds, such grounds can properly be resorted to only when the words of an act are ambiguous or otherwise doubtful. The words of the act of 1818 are not of this character at all. They are just as applicable to an insurrection commenced one year ago as to one begun "eight years" ago. The act forbids the fitting out, &c., of vessels to cruise or commit *hostilities in all cases* against the subjects, citizens, or *property* of * * * any colony, district, or people with whom the United States are at peace. Does not this case of Cuba fulfil all these conditions? This I think cannot be denied; and if it not true then that to hold the act inapplicable to Cuba would be to hold it to be nugatory? Is it not then the clear, unquestionable duty of the Executive to apply it? Will it become any more applicable by suffering this deplorable bloodshed and devastation to rage on for one, two, or three, or a cabalistic number of "eight" years longer? I am wholly unable to discern it. With every disposition on our part to acknowledge the independence of the revolted continental colonies of Spain, it was not until three years after the extension of the act of 1794 to those colonies that we felt warranted in pronouncing them independent. So far as I can discern, the case of Cuba is exactly that which it was the purpose of the act imperatively to provide for. If there had been no other colonies except the then insurgent ones, the policy of Mr. Sumner's interpretation of the act would be less devoid of plausibility. Though even that would not save his argument. But there was a multitude of colonies at our doors, of which this magnificent island was one, and it was the purpose of the statute to give them fair play in any effort they might, in imitation of our example, make to rid themselves of their despotic and rapacious masters.

As to the question whether this sanguinary contest, waged by the Islanders for the right of self-government, and by Spain (who cannot govern herself) for the maintenance of her unjust and oppressive dominion over them, constitutes a war, it has long since ceased to be a pertinent inquiry. A contest vigorously carried on without cessation for many months between organized military forces, with all the destructive implements and appliances of modern warfare, in which thousands of men have been slain, and property amounting in value to millions destroyed, is at more than sufficient war to bring the case of Cuba within the act, and to entitle her of right to its enforcement in her favor.

And so of the question of an organized civil government. The Cubans have unequivocally evinced their determination to maintain their political organization and claim a position among the political communities of the earth, and their organization has more than sufficient stability and efficiency to shield it against the heartless sneer that locates it "in a camp." The act moreover is silent upon both these points of war and government. It forbids aid to either party in committing "hostilities" against the other, and, essentially Cuba is a "colony," and her gunboats are designed to be "employed in the service of" Spain "to cruise or commit hostilities against" the Cubans and their "property;" and the case, being within the express unequivocal words of the act, must unanimously be held to be within its purview.

If these gunboats are suffered to leave their port for Cuba, it may be that by their aid the liberty-loving Cubans may be starved into submission, and that we shall thus be circumvented from disquieting on their account. God forbid that a motive so unworthy for leaving this people to their fate should find a place in any American heart!

There has been a notable misapprehension by some of the conductors of the public press touching the bearing of this controversy upon our negotiations with Great Britain relative to the Alabama claims. It has been supposed that while, inconsequent of the requirements of our laws, in order to preserve our consistency toward England, we were bound to enforce the restraints enjoined by the statute with respect to the Cubans, we might with perfect consistency leave our citizens to disregard them *ad libitum* with respect to Spain. Nothing can be more unfounded. The purpose of our statute, as I have already shown, and as conceded, or rather unavoidably assumed, by Mr. Sumner, was to place the people of a colony engaged in hostilities on a footing of equality with independent states. It is on this footing, therefore, that Cuba now stands under our laws toward Spain; and to allow Spain in our ports to fit out vessels of war to commit hostilities against the Cubans is to do on a larger scale precisely what we charge England with having done in favor of the insurgents against our own Government. I pray you, sir, to consider whether, if this should be objected in our future negotiations with England, any satisfactory or even plausible answer could be given to the objection.

I am, dear sir, with the highest regard, most respectfully yours, ALFRED CONKLING.

GETTING MR. SUMNER'S ORDERS.

Democratic Divisions of the Spoils—The Meeting of the Legislature in New York City.

A number of the Democratic members of the next Legislature arrived in this city yesterday from the interior of the State, and held a private caucus in the Astor House. Their visit here is in reference to the large amount of patronage at the disposal of Gov. Hoffman, alias Peter B. Sweeny, and they are naturally anxious to provide for the worthy gentlemen to whom they owe their election. Owing to the absence of the authorized representatives of Tammany at the caucus, these Solons elect took no decided action, but it is understood that they will meet again to-day. Among the lucrative offices which are coveted by these legislators in behalf of their friends, are those of Harbor Masters, which yield from $4,000 to $10,000 a year. There are nine of these splendid sinecures to be given away, and the candidates for each are legion. Mr. Sweeny, however, will take care that the office-seekers from the interior do not secure the lion's share of the fat portion of the patronage.

Errors Corrected.

To the Editor of The Sun.

SIR: I am pained to reply to an article in yesterday's SUN. It was not intended to do so. The article was calculated to do me injustice and injuriously affect the memory of the dead. My former wife went to the Island of Inagua, and on the return voyage, nothing was left alive. Mrs. Fellow lived, died, and was buried at sea. She willed a portion of the property to her children by a former husband. Her mother died some time ago, and was in no manner mixed up with the matter. The house next to mine is occupied by persons whose character I know nothing of.

CYRUS RAMSAY, M. D.

REAL ESTATE TRANSACTIONS.

At the Exchange Salesroom yesterday, Mr. Jas. Levy sold the house and lot 102 W. 4th st., for $6,000 to $30,000.

Messrs. A. J. Bleecker, Son & Co. sold the lease of a livery stable and lots 36, 38, 40, and 42 4th av., size of lots 16x100 to 50x100, for $16,000.

Mr. John McClave sold at private sale 1 gore lot corner of 103d st. and Avenue 4th, Nicholas Venta, inc. 300 square ft. for $4,000. This gore with 3 of Avenue 4th, Nicholas was sold 1881 thence for $1,500, and $1,200 awar of. Also sold 4 lots on W. H. York's estate (Westchester co.) for $2,000 for $500 rec. 6 years.

See our advertising columns.

NATIONAL GUARD NOTES.

The tax-exemption suit in Brooklyn has been decided in favor of Gen. Woodward.

Messrs. H. H. Abernethy and Martin Finck were elected First and Second Lieutenants of the City Guard, Jersey City, on Wednesday evening.

Court Calendars this Day.

Supreme Court—Short Cause—Nos. 94, 108, 1518, 1530, 1535, 1536, 1538, 1539.

Superior Court—Adjourned Term—Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,