



SPANISH ANSWER RECEIVED

Is Only a Very Clever Play to Gain Time.

SCORES A POINT IN DIPLOMACY.

Accepts the Good Offices of America to a Certain Extent.

HER SOVEREIGNTY MUST BE RECOGNIZED.

Autonomy Will Be Granted Before President McKinley Has Time to Act.

Special Dispatch to THE CALL

NEW YORK, Oct. 27.—The World's Madrid correspondent cables: The following are the principal features of the Spanish note in reply to the communication presented by Minister Woodford. It opens with a warm demonstration of friendly feeling toward the United States, the expression of a desire to preserve cordial relations between the Governments and a hearty acknowledgment of the friendly spirit shown by the United States in volunteering by note of September 23 to assist Spain in bringing the Cuban war to a speedy termination. The reply says if the American Government will explain how it proposes to co-operate in the pacification of Cuba, the suggestion will receive due attention, on the understanding that Spain's right of sovereignty and the Spanish right to settle domestic disputes with a Spanish colony when and as Spain deems fit shall also be recognized. It then goes on to show how the Liberal Government in the short time which has elapsed since it took office has spontaneously begun to carry out the home-rule policy announced in the declarations of Sagasta and Moret before they took office.

In accordance with the plans of the Cuban autonomists the first acts of this policy have been the recall of Weyler and the appointment of Blanco, with instructions so liberal, so conciliatory as to amount to a reversal of the policy of the last two years and pave the way for obtaining the support of all the colonial parties, especially the autonomist, for a cause which will not only go further than C. Novas did, but which will be virtually the execution of all that American public opinion and the Government of President Cleveland recommended to satisfy the aspirations of West Indies. This policy will be carried out immediately, so far as the Spanish executive can

under the Spanish constitution and the given conditions of the colony, and will be ratified by the Cortes early in 1898. Spain expects that the well-known spirit of justice and fair-play characteristics of the United States and the friendly disposition of the Washington Government will give the new policy the time required to test its sincerity and efficacy. Spain can, therefore, fix no date for the close of the war.

The United States can nobly and powerfully assist Spain and show the sincerity of its offers of co-operation by henceforth checking filibustering expeditions. Moral and material assistance from the United States have chiefly contributed heretofore to the development and duration of the rebellion that has caused the damage of which the Washington Government complains.

The most carefully worked, the longest and the most elaborate part of the note is the exposition of the Spanish case against filibustering expeditions. Historical precedents from decisions of the Supreme Court citations from the messages of Presidents Taylor, Buchanan and Grant, and past modifications of the laws of the States, made with a view to the better enforcement of the rules of international law, are invoked to show that Spain hopes McKinley will follow in the footsteps of his illustrious predecessors. If the Washington Government will keep faith, the note declares, the pacification of Cuba will become a question of but a few months.

The Spanish Government does not intend to publish the note nor the American note which drew it out unless the Washington authorities take the lead in the matter. In diplomatic and political circles at Madrid the Spanish note is considered a very clever move to gain time to ward off the action forehanded by the American note and to secure the sympathies of the European governments.

The Council of Ministers will to-day decide whether it is expedient to use the authorization voted by the Cortes last June to make a big loan, with an imperial guarantee, for Cuban war expenses, as only twenty millions of the credit is left and there is several millions of arrears due in Cuba. The Spanish note also contains the statement that Spain did not recognize the belligerency of the Confederate States until after several European powers had taken the lead, and an intimation that the United States should act reciprocally in the matter of Cuba.

Americans Set Free. WASHINGTON, Oct. 27.—Vice-Consul General Springer, at Havana, has telegraphed the State Department that the Spanish authorities have pardoned Frank Agramonte and Tomas Julio Saenz, two American citizens, who have been imprisoned at Santiago de Cuba since June, 1895. There are now probably less than half a dozen Americans held prisoners in Cuba, exclusive of the Competitor crew.

NOT MURDERER DUNHAM. Deputy Cottle Telegraphs That the Wrong Man Is Confined at Rosario.

SAN JOSE, Oct. 27.—Sheriff Lyndon this evening received a telegram from Deputy Sheriff Byron Cottle, dated Rosario, Mex., which gives positive evidence that the man held at that place is not James C. Dunham, the murderer of the McGilney family. The telegram is as follows:

Suspect not Dunham; wire instructions to Minister at Mexico to release prisoner. GEORGE B. COTTLE. Mr. Cottle, who knew Dunham well, was sent to Mexico to identify the man held on suspicion of being the murderer.

HANFORD'S OPINION IS FILED

Text of His Ruling to Be Placed Before McKenna.

APPEAL LIKELY TO BE MADE.

If It Is Lost, Our Gates Will Be Open to Chinese Hordes.

NEW LEGISLATION MAY BE NECESSARY.

Substance of the Famous Decision Which Nullifies the Exclusion Act.

Special Dispatch to THE CALL

SEATTLE, Oct. 27.—In the Federal court to-day Judge C. H. Hanford placed on file his written opinion in the famous case of the United States Government against Mrs. Gue Lim. It was the oral opinion delivered in this case several days ago that has satisfied Government officials on Puget Sound that Chinese men and women will be allowed to come into the United States, no matter how great the efforts of the Government may be to keep them out. Now that the written opinion is on file it is said United States District Attorney Brinker will immediately place its contents before Attorney-General McKenna. The latter, it is expected, will confer with the Treasury Department, and if in the judgment of the Washington officials, Judge Hanford's ruling will open the gates to Chinese supposed to be excluded from this country, immediate steps will be taken to have the decision appealed from.

Government officers say that if the higher courts sustain Judge Hanford, Congress will have to enact a new law of the children of the Orient will have no trouble in gaining admission to the United States.

Judge Hanford in opening his decision recites the fact that the defendant is the wife of a Chinese merchant, lawfully domiciled and doing business as a merchant in this State. Upon her arrival a few months ago the Collector of Customs at the port of her arrival, upon proof which he considered sufficient that she was not a laborer nor a person excluded by the laws of the United States from coming to this country, and that she was a lawful wife of a Chinese merchant, permitted her to land and take up her residence with her husband; but her right to enter was not evidenced by the certificate prescribed by the sixth section of the act of July 5, 1884.

The court here gives section 6 in full, which is to the effect that a Chinese person other than a laborer who shall be about to come to the United States shall obtain the permission of and be identified as so entitled by the Chinese Government or of such other foreign Government of which at the time such Chinese person shall be a subject, in each case to be evidenced by a certificate of such Government which shall show such permission has been granted, and shall contain a description, etc., of the subject and shall certify that such person is entitled by the act of Congress to come within the United States.

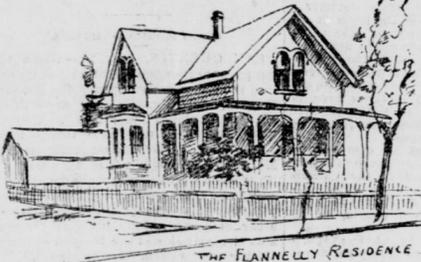
Judge Hanford takes up and discusses the details in connection with the arrest of Mrs. Gue Lim. She was arrested because she came to this country without the certificate from her home Government.

The question in the case is, says the court, whether she was entitled to be admitted on her arrival without the certificate required of Chinese persons privileged to enter by section 6 of the act of 1884, already quoted. Judge Hanford refers to a case which came before Judge Deady at Portland, Or., in 1890. Judge Deady held that the wife and minor child of a Chinese merchant, lawfully dwelling in the United States, were not of the laboring class and therefore not excluded from entering, and further held that section 6 of the act of 1884 was not applicable to such a case, stating that it was impracticable for such persons to comply with the requirements of that section, and the effect of the statute, if applicable to such cases, must necessarily be to exclude them and deprive them of rights guaranteed by the treaty of 1880. The decision says:

I find support for this decision in the opinion of Judge Sawyer in the case of Ah Moy, wherein he shows that the Chinese exclusion acts were intended to apply to laborers as a class, and that the wife of a Chinese person has the same status as her husband and belongs to the class to which he belongs; whether she is in fact a laborer or not. Also in the decision of the Supreme Court in the case of Lau Ow Bow (144 U. S. 47-54), wherein it was held that a Chinese merchant having an established mercantile business in the United States and maintaining therein a commercial domicile, upon returning from a temporary absence was entitled to enter and remain in this country without producing the certificate required by section 6 of the act of 1884.

In reason it seems to me that this statute could not have been intended by Congress to apply to cases like the one now being considered; its non-applicability is shown by the fact that compliance with its requirements on the part of persons in the situation of this defendant is impossible, and it is unreasonable to presume that Congress intended to exact of persons whose right to dwell in this country has been secured by treaty stipulations, performance of impossible conditions, or to deprive them of the right to come into this country for non-performance of such conditions. If it was intended to abrogate the treaty Congress would have so declared in explicit terms. I would not have felt called upon to write

FLANNELLY THE PARRICIDE SHOWS NO REMORSE FOR HIS ATROCIOUS CRIME



With His Hands Imbued in the Blood of His Aged Father, He Rests Stolidly in His Cell at Redwood City.



SCENES FROM THE AWFUL TRAGEDY AT REDWOOD CITY.

An opinion in this case if it were not for the fact that recently Judge Lacombe, in the Li Foo case (80 Federal Reports, 881), has given an effect to this statute as a barrier to the admission into the United States of an infant child of a Chinese merchant lawfully residing therein, and upon his authority the officers of the Government insist that the defendant in this case must be separated from her husband and returned to China. In his opinion the learned Judge seems to have been led to his conclusion by considerations of what he supposed to be the weight of authority, and yet he ignores entirely the decision by Judge Deady in the Chung Toy Ho case and the decision of the Supreme Court in the Lau Ow Bow case. He says that the only authority cited in support of the right of a child of a Chinese merchant residing here to come into the United States is the Chung Shee case (71 Federal Reports 277), but apparently in that case the betrothed bride held a certificate. As a matter of fact the Chung Shee case as reported is not an authority on that point at all. The decision in that case by Judge Welborn was to the effect that the right of the woman to come into the United States and remain had been finally adjudicated by Judge Bellinger and that the judgment in her favor, rendered at Portland, Or., was final and conclusive; and he, therefore, declined to consider the question as to the right of a wife or child of a Chinese merchant in this country to come into the United States without producing the certificate required by the act of 1884. In the Chinese wife case (21, Fed. Rep. 785) the woman in the case was the wife of a Chinese laborer and belonged to the class of persons which the statutes prohibit from entering the United States, and Judge Sawyer placed his decision against the right which she claimed on that ground. The opinion by Justice Field, however, in that case does hold that a Chinese wife must be regarded as a distinct person, and that to be entitled to admission she must furnish a certificate as required either by section 4 or by section 6 of the act of 1884, and his opinion is an authority supporting Judge Lacombe's decision, entitled to due respect. The only comment upon it which I deem proper to make is that it was rendered prior to the decision of the Supreme Court in the case of Chew Heong (112 U. S. 356-590), in which the court held that the fourth section of the act of May 6, 1882, as amended by the act of July 5, 1884, prescribing the certificate which shall be required of Chinese laborers as the only evidence permissible to establish his right to re-enter into the United States, is not applicable to Chinese laborers who, residing in this country at the date of the treaty of November 17, 1880, departed by sea before May 6, 1882, and remained out of the United States until after July 5, 1884, reversing the judgment of the Circuit Court of the United States for the District of California, given in accordance with the opinion of Justice Field and contrary to the opinion of Justice Sawyer. Recurring to the decision of Judge Lacombe in the Li Foo case, he states that apparently the betrothed bride referred to in the Chung Shee case held a certificate as if that fact might be considered the basis for the decision in favor of her right to enter. It appears, however, by the report of Judge Bellinger's decision that the only certificate which was considered in the case was a certificate identifying the husband and setting forth that the petitioner was his wife, and that such certificate was intended to evidence her right to land by virtue of such relation, which certificate was prepared at Portland, Or., and forwarded to China. Certainly this was not the certificate contemplated or required by

section 6 of the act of 1884. In re Lum Lin Ying (59, Fed. Rep. 682), I consider that it may be fairly claimed that the weight of authority is not as supposed by Judge Lacombe, but the contrary. Looking now to the reasons for and against the rule contended for by the officers of the Government, I agree with Judge Deady that the admission of Chinese merchants with their families is not to be regarded as a mischief which his Chinese restriction and exclusion acts were intended to remedy. This is a commercial nation; the maintenance and extension of American commerce with the Oriental countries must redound to the benefit of the American people as a whole. Chinese merchants in this country are doing an important part in fostering this important interest, and no benefit whatever can accrue to the people of this country by depriving them of liberty to dwell within our borders with their families under the protection of our laws. The argument that Chinese laborers will come to the United States in great numbers under pretense of being members of families of merchants already living here does not have very great force. The law has been administered as interpreted by Judge Deady since the date of his decision in the Chung Toy Ho case in 1890, and the evils supposed to follow such a decision have not come to pass. But against all argument opposed to liberality towards Chinese of the merchant class, it must be said that it is the duty of the court to declare the law as Congress has made it and harmonious with the established rules of the construction and interpretation of statutes. By this test I am constrained to hold that the defendant is entitled to be discharged. PROFESSOR PRITCHETT CHOSEN. Will Succeed General Duffield as Chief of the Coast and Geodetic Survey.

WASHINGTON, Oct. 27.—The President has decided to name the successor to General Duffield, chief of the coast and geodetic survey, on November 1. He will appoint Professor Pritchett of Washington University, St. Louis, Mo., upon the recommendation of Secretary Gaze. This will be a disappointment to two California scientists who were ambitious to succeed General Duffield. The latter has never been popular with Californians since he dismissed without any cause whatever, Professor Davidson, who had grown gray in the service. Duffield then appointed his own son to a responsible position in the survey and thus further incensed not only the friends of Professor Davidson, but Eastern scientists who sharply criticized him for his nepotism. It is said too, that this displeased President Cleveland and Secretary of the Treasury Carlisle, but they took no action. Another Californian who was an applicant for the superintendency was Professor Holden. Professor Pritchett was indorsed by a vast number of scientific men. For fifteen years he had been at the head of Washington University, and for several years he was assistant astronomer at the naval observatory here.

REDWOOD CITY, CAL., Oct. 27.—When Sheriff McEvoy kicked open the door the beams from the lamp threw the officers into bold relief and made them conspicuous objects to the murderer, who sat in the bed with the bedclothes wrapped around him. The officers could not see him in the semi-darkness of the room until the firing began. The flashes from the guns lit up the interior of the room, revealing Flannelly, who with a Winchester rifle to his shoulder, was firing point blank at the Sheriff and his deputy. The fusillade was fast and furious. The smoke hung in clouds about the room. Sheriff McEvoy was struck in the arm by a bullet and dropped his pistol. While he was groping about the floor for it Mansfield and Flannelly kept up the duel. The leaden missiles whistled past the ears of the officers and buried themselves in the wall. The bullet which struck the Sheriff glanced and hit Mansfield in the left forearm. Deputy Butts rushed in with a double-barrel shotgun to assist the Sheriff. Flannelly called out: "Don't use the shot gun; come and take me."

REDWOOD CITY, Oct. 27.—Thomas Flannelly, the murderer of his aged father, Patrick Flannelly, lay to-night on a cot in the new City Jail at Redwood City not 500 yards from the house wherein the tragedy which has shocked the people of the picturesque little town was committed. The coarse blue blankets of the prison bed concealed from view all but the face of the murderer. The parricide was silent and morose. The wounds from the six bullets which entered his body did not elicit many groans from the murderer. His body is almost riddled with bullets, but, strange to say, no vital spot was reached, and the doctor who attended him says that unless blood poisoning sets in he will recover, though it will take many months. On the floor below that on which the murderer is lying with the shadow of the hangman's noose over him lies one of the victims of his deadly Winchester, brave Sheriff W. P. McEvoy, with his left arm tied in a sling and bandaged with lint. Two doctors sat beside him, as also did his wife, who gave that sympathy which only a loving woman can give. The Sheriff's wound pained him considerably, but his chances for a speedy recovery are good, unless blood-poisoning ensues. Deputy Sheriff Mansfield, who was exposed to the fire from Flannelly's Winchester, was most fortunate. He escaped from the fray with a trivial wound on the left arm. The ball struck him in the heel of the hand, ripped his coat sleeve to the elbow and creased the flesh of the forearm. His wound will heal in a short time. The body of the murdered man was lying in the Flannelly home robed in its burial garments. A hole in the forehead denoted where one of the bullets from the parricide's pistol entered, robbing the father who had nourished him in the days of his prattling childhood of his life. The upper part of the mouth was blown away by a 44-caliber bullet, revealing a ghastly hole in the dead man's face.

There is another hole in the breast, showing where the leaden missile from the son's pistol found its way to the old man's heart. The story of the murder and the fight that followed in the attempt to capture the bloody assassin was told to-day by some of the participants in the affair, and retold by the people who stood about the streets in groups discussing the most atrocious crime which has ever clouded the criminal annals of the county. A more correct version of the murder and the subsequent fight between the Sheriff's posse and the murderer was given to-day. Thomas Flannelly was a shiftless fellow, who abused the confidence of his aged father. His reckless ways finally caused the old gentleman to lose patience with his son and he determined to show him no more leniency. This is what led to the terrible murder. Patrick Flannelly owned a fine farm about two miles from Redwood City. Some time ago he placed his son Thomas on the farm, thinking that it would steady him some and, in the language of the old gentleman, "make a man of him." The farm was used as a dairy and the young man might have been successful but for his love of liquor. His dissipated habits soon caused him to neglect the business, and he found that he could not conduct it and still engage in his bacchanalian pleasures. Some time ago he went to his father and stated that he wished to take a partner into the business, saying he believed that by so doing he would derive more revenue from the dairy and have more time for his own amusement. Patrick Flannelly ridiculed the idea, and both men being somewhat high-tempered, the interview ended with a quarrel. Believing that his son was not worthy of any further favor the father determined to have him evicted from the dairy. Last night about 8 o'clock Constable C. B. Bar-

ENGLISH ROYALTY MOURNS.



Sudden Death of the Duchess of Teck as the Result of a Recent Surgical Operation.

RICHMOND, ENG., Oct. 27.—The Duchess of Teck, cousin of Queen Victoria, sister of the Duke of Cambridge and mother-in-law of the Duke of York, died at the White Lodge here this morning. The death of the Duchess was altogether unexpected. It was supposed that she had entirely recovered from a complaint which caused her considerable suffering. Inquiries made to-day at the White Lodge, the residence here of the Duke and Duchess of Teck, show that when the Duchess returned from the north a few days ago there were slight symptoms of a recurrence of the strangulated hernia, for which she sustained an operation in July last, but it was not expected that any serious consequences would ensue. On Monday, however, the Duchess became ill, though even then no serious symptoms were observed. But on Tuesday she became worse and the London specialists who had previously operated on her were summoned to Richmond. They held a consultation and decided last evening that the life of Her Royal Highness could not be sustained without another operation. This was successfully performed, but the Duchess gradually sank and died at 3 o'clock this morning. The funeral will probably take place at Windsor.