

can the diplomatic incident be considered as closed."

This government had no desire whatever to change the meaning of Marquis Rudini's telegram of March 24th. It was delivered at the State Department by the Baron in person, written in his own hand and expressed in the English language. Following is the full text of the telegram:

*"Italian Minister at Washington:*

"Our requests to the Federal government are very simple. Some Italian subjects, acquitted by American magistrates, have been murdered in prison while under the immediate protection of the authorities. *Our right, therefore, to demand and obtain punishment of the murderers and indemnity for the victims, is unquestionable.* I wish to add that public opinion in Italy is justly impatient, and if concrete provisions were not at once taken, I should find myself in the painful necessity of showing openly our dissatisfaction by recalling the minister of his Majesty from a country where he is unable to obtain justice.

(Signed.)

"RUDINI."

The words underscored are precisely those which I quoted in my former note, and I am directed by the President to express the satisfaction of this government with the material qualification of the demand made by Marquis Rudini on behalf of the Italian government.

You quote in your note another part of Marquis Rudini's telegram of April 2nd, in these words: "Meanwhile his Majesty's government takes note of the declaration whereby the federal government recognizes that indemnity is due to the families of the victims in virtue of the treaty in force between the countries."

If Marquis Rudini will carefully examine my note of April 1st he will discover that I did not "recognize that indemnity is due to the families of the victims in virtue of the treaty in force between the two countries." What I did say was in answer to Baron Fava's assertion that the United States government refused to take this demand for indemnity into consideration. I quote my reply:

"The United States, so far from refusing, has distinctly recognized the principle of indemnity to those Italian subjects who may have been wronged by a violation of the rights secured to them under the treaty with the United States concluded February 26, 1871."

Marquis Rudini may be assured that the United States would recompense every Italian subject who might be wronged by violation of a treaty to which the faith of the United States is pledged. But this assurance leaves unsettled the important question whether the treaty has been violated. On this point the President, with sufficient facts placed before him, has taken full time for decision. He now directs that certain considerations in the general subject be submitted to the judgment of the Italian government.

As a precedent of great value to the case under discussion, the President recalls the conclusion maintained by Webster as Secretary of State in 1851. In August of that year a mob in New Orleans demolished a building in which the office of the Spanish Consul was located, and at the same time at-

tacks were made upon coffee houses and cigar shops kept by Spanish subjects. American citizens were involved in the losses, which in the aggregate were large. The supposed cause of the mob was intelligence of the execution of fifty young Americans in Havana and banishment to the Spanish mines of nearly 200 citizens of the United States. The victims were all members of the abortive Lopez expedition. In consequence of these depredations of the mob upon the property of the Spanish consul, as well as against Spanish subjects, Don Calderon La Parca, Minister of Spain, demanded indemnification for all losses, both official and personal. Webster admitted that the Spanish consul was entitled to indemnity and assured the Spanish Minister that if the Spanish consul, Laboude, "shall return to his post or any other consul to New Orleans shall be appointed by her Catholic majesty's government, the officers of this government, resident in this city, will be instructed to treat him with courtesy, and with a national salute to the flag of his ship, if he shall arrive in a Spanish vessel, as a demonstration of respect, such as may signify to him and his government the sense entertained by the government of the United States of the gross injustice done to his predecessor by a lawless mob, as well as the indignity and insult offered by it to a foreign State, with which the United States are, and wish to remain, on terms of most respectful and pacific terms."

But when pressed by the Spanish minister to afford indemnity to the Spanish subjects injured by the mob, in common with Americans, Webster declined to accede to the demands, and gave his reasons as follows: "This government supposes that the rights of the Spanish consul, a public officer residing here under the protection of the United States, are quite different from those of Spanish subjects who have come into the country to mingle with our citizens and to pursue their private business and objects. The former may claim special indemnity; the latter are entitled to such protection as is afforded to our own citizens. While, therefore, the losses of the individual private Spanish subjects are greatly to be regretted, yet it is understood that many American citizens suffered equal losses from the same cause; and those private individuals, the subjects of her Catholic Majesty, coming voluntarily to the United States, have certainly no cause of complaint if they are protected by the same laws and the same administration of law as native-born citizens of this country have. They have, in fact, some advantages over the citizens of the State in which they happen to be, inasmuch as they are enabled, until they become citizens themselves, to prosecute for any injuries done to their persons or property in the courts of the United States or State courts at their election."

It is proper, however, to add that two years later Congress, in recognition of certain magnanimous conduct on the part of the Queen of Spain in pardons bestowed on Americans who had unjustifiably invaded the island of Cuba, enacted a joint resolution, indemnifying the Spanish Consul and other Spanish subjects for the losses sustained. It was held not

to contravene the original position of Webster, shared also by President Fillmore. The right to judicial remedy, which Webster assured to the Spaniards, is likewise assured to Italian subjects, a right specially guaranteed in the second section of the third article of the constitution, and by it, as Webster points out, a resident alien has a privilege which is denied to the citizen. The widows and children of the citizens who lost their lives by mob violence may sue the leaders and members of the mob only in the courts of the State of Louisiana, while the widows and children of the Italian subjects who suffered death have a right to sue each member of the mob, not only in the State courts, but also before the Federal tribunals for the District of Louisiana. Provision is made in the revised civil code of Louisiana for the redress of such grievances as the widows and children of victims of a mob may plead.

Blaine here quotes from the statutes of Louisiana and continues: The government of the United States would feel justified in resting on the argument and conclusion of Webster if the mob of March 14, 1891, did not, in some of its characteristics, differ from the mob of 1851, but it is, in entire candor, due to this government and due to the government of Italy, to point out certain differences of which the government of the United States is honorably bound to take notice.

In the case of the mob of 1851, Webster asserts that "no personal injury was offered to any one;" that "the police and other legal authorities did all that was possible to preserve the peace and arrest the rioters;" that "the mob acted in the heat of blood and not in pursuance of any pre-determined plan or purpose of injury or insult;" that "the mob was composed of irresponsible persons, the names of none of whom are known to the government of the United States, nor so far as the government is informed, to its officers in New Orleans."

As promptly as possible after the lamentable occurrence at New Orleans the President directed the Attorney-General to cause, through his department, a full inquiry to be made into all the facts connected therewith, and solicited his opinion whether any criminal proceedings lie under the Federal laws in the Federal courts against the persons charged with killing the Italians. He has not received an official report.

If it be found that the prosecution can be maintained under the statutes of the United States, the case will be presented to the next grand jury, according to the usual methods of criminal administration. But if it shall be found, as seems possible, that criminal proceedings can only be taken in the courts of Louisiana, the President can in this direction do no more than charge upon the State officers the duty of promptly bringing the offenders to trial. This was done in his telegram to the governor of Louisiana as early as the 15th of March.

If it shall result that the case can be prosecuted only in the State courts of Louisiana, and the usual judicial investigation and procedure under the criminal law is not reported, it will then be the duty of the United States to consider whether some other form