

‘A Fruitful Source of Trouble’: The Virginius Affair and the Rise of Free Trade Foreign Policy
in Nineteenth-Century America

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ABSTRACT

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A thesis presented to the Department of History

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In 1873, the capture of a private American vessel, the *Virginius*, by a Cuban warship almost brought the United States and Spain to war. Running arms and troops to Cuban revolutionaries fighting against Spain, the *Virginius* was seized as a pirate vessel and fifty-three members of its crew were put to death by Cuban authorities. A widespread popular reaction to the incident, which was termed the *Virginius* Affair, swept through the United States while newspapers agitated for war against Spain. The affair, however, was resolved peacefully through the foreign policy strategies of Secretary of State Hamilton Fish. Dealing with a capricious minister to Spain, unreliable communication networks, and a public in uproar, Fish patiently waited for the State Department to gather more information on the ship and its alleged piratical activities. Basing his policies in the principles of nineteenth-century free trade economics, Fish mediated the international incident while promoting American economic interests in the Caribbean. Although the United States retained a high tariff system throughout the late nineteenth-century, the foreign policy strategies of politicians like Hamilton Fish reveal the extent to which the rhetoric of free trade had become embedded in American diplomacy. This narrative challenges

popular conceptions of this era in American history as isolationist and free of governmental restriction; the United States government was actively involved in both foreign and domestic economic affairs, seeking to maintain economic protectionism at home and liberalize trade around the world. Weeks after the *Virginus* Affair played out it was lost to public memory. In the wake of Fish's successes, local free trade organizations gained significant support by championing a utopian view of American politics that resonated with the practical policies of the U.S. State Department. These societies would be influential decades later in prompting the War of 1898 against Spain. In a final irony, the legacy of the *Virginus* Affair would become a rallying cry against Spain in the 1890s, and the free trade foreign policy of Hamilton Fish would ultimately be realized by America's twentieth-century empire.

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Introduction

In the nineteenth century, several events brought the United States into conflict with the nation of Spain. The dubious fate of a ship overseas sparked a wave of belligerent rhetoric in the United States, amplified by a sensationalist press, and American policymakers were forced to seriously consider the results of an international war against the Spanish empire. The ship, however, was not the *U.S.S. Maine* and the war never came about. Rather, the vessel that served as the center of potential conflict was a private trading vessel named the *Virginius*.

Hired to run arms and ammunition to Cuban insurrectionists rebelling against the imperial control of Spain, the *Virginius* was captured by Spanish authorities in the Caribbean in 1873. Many of its crew were executed. When news of the killings came to the United States, many clamored for war. Newspaper headlines called for a belligerent response to Spain's brutality, protesters organized across the nation in support of war, and many politicians agitated for an immediate hostile reaction. Secretary of State Hamilton Fish, however, refused to immediately castigate the Spanish. Under Fish's orders, members of the State Department carefully brought in more evidence concerning the executions. With this in hand, Fish negotiated the dispute through international methods of arbitration based in legal principles. The *Virginius* Affair, as it became known, was resolved within a few weeks. Several months later, public had largely forgotten the affair.

Why did Fish take this course of action? In 1898, the explosion of the *U.S.S. Maine* prompted only a hasty investigation that remained largely inconclusive. Why then, twenty-five years earlier, did the State Department resolve the case of the *Virginius* through completely different

means? Many of the Secretary of State's rivals saw his relative passivity as a sign of weakness or indecision. Fish's supporters, many of whom offered advice and guidance during the weeks of the affair, praised the Secretary for his tact and diplomacy. To them, Fish handily dealt with an unforeseen catastrophe, and saved the nation from international embarrassment.

Both of these views, however, ignore the larger philosophy of foreign policy that guided Hamilton Fish throughout the affair. He grounded his political philosophy in broad principles of free trade economics and motivated by the removal of tariff restrictions and trade barriers around the globe. Fish summed up this ideology in the weeks following the affair. In a letter to one of his confidants, Gouverneur Kemble, Fish highlighted the usefulness of the Virginius Affair for future international negotiations. The executions on the shores of Cuba, he concluded, were a particularly "fruitful source of trouble",¹ meaning that Spain's diplomatic standing was severely harmed by the affair. Fish continued, writing that the United States now had the upper hand in the continuing negotiations over the reduction of Cuba's high tariff. While his supporters praised Fish's diplomatic acumen, they failed to realize that international peace was only one of the pieces of Fish's free trade foreign policy. Though the United States retained a high tariff on its own imports, against the advisement of leading economists of the time, Fish's foreign policy ideology continually sought the relaxation of trade barriers in a world dominated by imperial connections.

Fish's foreign policy presaged a broad shift in American economics in the years after the Civil War. Due to a variety of factors, the U.S. government maintained a high tariff throughout the late nineteenth century. Increasing domestic industrialization following the Civil War, as well

¹ Hamilton Fish to Gouverneur Kemble, December 11th, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

² Issued by the Chief of the Bureau of Statistics, "Statistical Abstract of the U.S.", (Washington Government Printing Office, 1878), 26.

³ Ibid, 26-28.

⁴ See Nathan Appleton Papers, Library of Congress, box 1, folders 2-4, for more information on the increasing accessibility of free trade ideology offered by free trade activists like Appleton.

⁵ Nathan Appleton Papers, box 1, folder 3, "Free Trade and Finance", published in the Boston Daily Globe, July

as massive growths in population, stimulated the growing American economy. Despite its growing manufacturing capabilities, the United States still greatly relied on the importation of foreign merchandise in the 1870s to supplement domestic production. 1873, the year of the worst depression to hit the United States in decades – the Panic of 1873 – represented an all time high year for imports, despite the protectionist economic policies in place. The importation of foreign merchandise reached close to \$650 million dollars, expanding on the year of 1870 by almost 50%.² Concurrently, the exportation of merchandise and investment abroad in 1873 reached a historic low. Following the economic malaise initiated by the Panic of 1873, these trends reversed. Domestic imports decreased, while exports abroad increased.³ Many economists and businessmen attributed the panic to this isolation of American exportation. Confronting the economic stagnation caused by the Panic of 1873, investors, industrialists, and manufacturers increasingly looked to new markets around the world to sell their products. In a world of imperial economic relations, where high tariffs or trade barriers restricted trade, this new policy of global economic interaction was bolstered by the free trade foreign policy of the U.S. State Department.

1873 was a key turning point in a longstanding debate over the economic future of the United States. Buoyed by the economic failures of protectionism, many advocates of free trade – reducing the protective tariff to encourage more international trade – began to agitate for economic policy shifts. These activists built upon a longstanding intellectual tradition that substantiated free trade, but they made such an ideology more accessible to the common public.⁴ These agitators grounded their concerns in the belief that the United States should work to loosen

² Issued by the Chief of the Bureau of Statistics, “Statistical Abstract of the U.S.”, (Washington Government Printing Office, 1878), 26.

³ Ibid, 26-28.

⁴ See Nathan Appleton Papers, Library of Congress, box 1, folders 2-4, for more information on the increasing accessibility of free trade ideology offered by free trade activists like Appleton.

restrictions on trade, both domestically and internationally, wherever possible. One activist commented, “the very essence of republican principles, which we have now for a hundred years so successfully demonstrated in the United States is, I take it, the securing of the greatest happiness for the greatest number, and for this the *less government* the better.”⁵ Echoing later claims made by twentieth century free trade proponents, these early free traders believed that limited governmental restriction on economic policy would ensure greater prosperity for all.

Oddly, considering this, American free trade intellectuals in the mid-twentieth century, like Milton Friedman, conceived of the late nineteenth century as the zenith of free trade economic policy. The actions and rhetoric of free traders protesting the protective tariff, however, reveals this conception of history as largely spurious. This substantiates the claims of historians like William Novak, who argue that the popular history of the nineteenth century as a time of weak government and unrestricted trade is largely fabricated.⁶ Free trade activists in the 1870s opposed an involved and active government that, they believed, unfairly restricted trade. The history of this movement has often been neglected because the American government maintained high domestic tariffs for several more decades. Despite this, the free trade movement shaped American foreign policy throughout these years.

American relations with Spain in the nineteenth century, as well, have long been ignored. Between 1821, when Mexico was established as independent, and 1898, when the U.S. finally did engage the peninsula in the War of 1898, scholars have consistently overlooked American foreign relations with Spain. When examined, the relationship is often through a forward-looking lens: examining the events of the 1880s and 1890s as precursors to America’s war with Spain.

⁵ Nathan Appleton Papers, box 1, folder 3, “Free Trade and Finance”, published in the Boston Daily Globe, July 28th, 1876.

⁶ For a broad overview of this literature as well as the debates within the field see, William J. Novak “The Myth of the ‘Weak’ American State,” and its responses in *American Historical Review* 115 (2010):764-

This paper contends that the political, social, and economic conflicts between Spain and the United States, while necessarily leading to the war near the turn of the century, remained contingent and critical events unto themselves. As one of these, the Virginius Affair marks a unique point in the relations between the two nations, divided and reconciled over the future of Cuba. In terms of practical economic relations, Spain and her colonies remained the fourth largest market of exported American goods throughout the 1870s, meaning that any political conflict with the nation would significantly jeopardize American economic interests.⁷ Free trade activists were aware of this, and consistently campaigned for relaxed trade barriers in Spain and the Caribbean as a means to promote international peace and American prosperity.⁸ While the American economic domination of Cuba in the twentieth century proved that free trade was disastrous for Cuba, the campaigns of free trade activists in the nineteenth century still reveal the longer history of free trade politics in the United States.

These free traders were supported by the political successes of Hamilton Fish in 1873. Fish espoused an ideological approach to foreign policy which emphasized many principles of free trade: the arbitration of disputes rather than resorting to military conflict, the negotiation of reparations for harm done to trade, and the overriding purpose to try and eliminate the trade barriers of an economic world dominated by imperial relations. The advent of the Virginius Affair, and Fish's handling of the resolution and ramifications, was characterized by this free trade approach to foreign policy. By opening up new trade routes in the Caribbean, offering naval support for private ships, and allowing extralegal profiteering, Hamilton Fish and the State Department offered the means for a more global system of trade to evolve in the nineteenth century.

⁷ "Statistical Abstract of the U.S.", 40-45.

⁸ For an example of this type of rhetoric, see Nathan Appleton Papers, box 4, folder 7, "The Future of Free Trade," published in the Boston Herald, October 7th, 1877.

This paper will reveal the longer history of free trade economic policy and its interrelationship with politics throughout the nineteenth century and how, at a particular moment in 1873, the coalescence of these principles manifested in the character of Hamilton Fish. Further, I will examine the longer consequences of the Virginius Affair, and its effect on the transformation of economic and political principles of foreign policy in the nineteenth century.

Before the Civil War, the tariff was one of the most contentious political issues in the United States. Conflict over tariff policy led to the creation of the Whig Party as well as several broad intellectual and social movements that espoused policies of protectionism and free trade. By the 1850s, these divides became regional: the North sought higher protective tariffs while the South argued for free trade economics. In the wake of the Union victory, the North instituted higher and higher protectionist tariff policies to protect America's rapidly growing manufacturing interests. Despite this, economists during this period increasingly began to criticize such a system. Chapter one lays out the economic origins of the Virginius Affair, tracing the shifting history of free trade economics in the United States and Spain.

Chapter two focuses on the political relationship between the transatlantic neighbors, and how Hamilton Fish's free trade foreign policies were applied and evolved throughout his first years in office. Cuba figured prominently in American politics throughout the nineteenth century. When Ulysses S. Grant claimed the presidency in 1868, American policy towards Cuba wavered between annexation and trade liberation. Opposing forces in Grant's cabinet proposed alternate solutions to incorporate Cuba into an American economic system. This struggle was embodied in the recurring debates between the Secretary of War John Rawlins and Fish, who supported annexation and trade liberalization respectively. The Secretary of State saw imperial

trade barriers as one of the fundamental problems of international relations, and his free trade foreign policy practices sought to eliminate these barriers whenever possible. Other international incidents, like the Alabama Claims, serve as evidence of Fish's expanding foreign policy strategies, and his reliance on free trade principles. As the *Virginius* Affair loomed on the horizon, personal and political changes in Washington served to place Fish at the head of Grant's cabinet while Daniel Sickles, an annexationist, was appointed as the U.S. ambassador to Spain.

Imperial conflicts between Spain and Cuba increased throughout the 1860s. Chapter three follows the specific ways in which the free trade foreign policy of Fish protected American private ships like the *Virginius*. Central to this were the voyages of the *Virginius* throughout the Caribbean as the ship transported weapons and soldiers to the Cuban revolutionaries and evaded the Spanish navy. Throughout its voyages, *Virginius* operated under the protection of the State Department. American consuls and warships protected the blockade-runner from Spanish intervention. This was another principle of Fish's foreign policy strategy, governmental protection of all private shipping interests, regardless of their purpose. The ship's luck, however, ran out in 1873 when it was captured by the *Tornado*. Due to unreliable telegraph communication, the news of the *Virginius*'s capture and the execution of its crew filtered back piecemeal to the United States. As more information reached the United States, many newspapers vilified Spain's actions, and protesters rallied for war across the nation. Although Fish sought to maintain a semblance of diplomatic order with the nation's transatlantic neighbors, the relationship between the United States and Spain became increasingly strained.

Chapter four follows the actions of politicians and diplomats in the United States and Spain as both sides attempted to negotiate in the wake of the *Virginius* Affair. Viciously attacked by a sensationalist media, Hamilton Fish resolutely continued to implement a strategy consistent

with his free trade foreign policy in response to the affair. Fish sought to stem the growing tide of belligerency in the United States by drawing on the precedents of international law. Personal battles between Minister to Spain Daniel Sickles and Spanish policymakers exacerbated tensions throughout the negotiations, and Fish quickly sought to eliminate Sickles from the diplomatic arena. Soon, Spanish officials returned the *Virginius* and the national furor died down. With the fading of the public interest, Fish continued his foreign policy strategies towards Spain and Cuba. The State Department pursued the relaxation of trade barriers in the Caribbean and it ardently protected all ships carrying the American flag on the high seas.

In the aftermath of the *Virginius* Affair, Fish continued his consolidation of authority on foreign policy in the United States. Chapter five follows the actions of Fish in the wake of the affair, the ramifications on international politics, and the reverberations of the affair at the turn of the century. Fish's first order of business was to appoint a new ambassador to Spain to replace the indignant Sickles. While the resolution of the affair signaled a victory for Fish and his supporters, many in Spain saw the event as a failure of Spanish republicanism, and Spain's short-lived democratic government was overthrown. The new military leadership in Spain continued the war in Cuba, but the withdrawal of tacit American support weakened the revolutionaries. Independence from Spain seemed untenable under such circumstances, and the revolutionary movement in Cuba faded into obscurity by 1876. The continued successes of Fish's free trade foreign policy reignited local activism in free trade economics in the late nineteenth century, and many activists saw Fish's implementation of international free trade principles as evidence of their broad applicability. Adherents of this movement would continue to affect American policy throughout the remainder of the century. As U.S.-Spanish relations worsened in the 1890s, the *Virginius* resurged into public memory as another justification for war. In 1898, the United States

finally engaged in a conflict that Fish had consistently deterred in his time. Further, the swift conclusion to the war would result in a fundamentally restructured global economic order, one where the United States dictated imperial economic policy. With this, Fish's longstanding goal of American free trade in the Caribbean was finally recognized, but only with the advent of a system he opposed his entire life: an imperial United States.

Chapter 1 A Lasting Bond of Peace

In July of 1853, the U.S. Secretary of War, the decorated General Jefferson Davis, was hosting a party thrown by the American government to celebrate the first World's Fair to take place in the United States, held in what is now Bryant Park, New York. Dubbed "An Exhibition of Industry of All Nations," the fair sought to display the latest and greatest industrial technology from across the western world. Beginning on July 14th, the grand opening of the fair was overseen by the newly inaugurated President Franklin Pierce, as well as members of his cabinet like General Davis. Pierce and his subordinates hosted several such balls, welcoming foreign dignitaries eager to share in the international exchange of industrial techniques. Sharing the stage with the French ambassador to the U.S., Count Eugene de Sartiges, the future president of the Confederacy rose to give his remarks concerning the progress of the fair. Members of the audience, many of who were French and American policymakers, expected another speech about the progress of industry throughout the U.S. and Europe. Instead, Davis announced his political sympathies for the institution of a free trade policy throughout the globe.

Tariffs and other protectionist schemes, Davis claimed, hindered the progress of peace among nations. As one sympathetic journalist later proclaimed following Davis' speech, "whatever may be thought of Free Trade as a question of political economy... no one can doubt that it is the most potent of all possible agencies for preserving peace among the nations which adopt it."⁹ Free trade, Davis continued, was primarily responsible for the exhibitions like the one in New York. Two years earlier, Sir Robert Peel, a noted member of the Free Trade Movement

⁹ "Free Trade as a Bond of Peace", *New York Times*, July 18, 1853, 1.

in England, organized the London World's Fair, the very first of its kind. These fairs followed free trade principles, as Davis and Peel conceived of them: the sharing of modern manufacturing techniques and economic policies in order to cultivate economic bonds between nations. If those economic bonds could become increasingly interconnected, to the point where each society was completely reliant upon all others, then war, Davis concluded, would be impossible. Only a government that acted completely in opposition to its own economic interests could pursue war in such a state of global affairs. Before he sat down, Davis again proclaimed that free trade was a "bond for peace."¹⁰

While some of the members of the audience, "thought the introduction of such a topic a violation of the proprieties of the occasion," the journalist reported, "the cordial applause with which his remarks were received, indicated a very general concurrence in the sentiments expressed."¹¹ Following Davis, Ambassador de Sartiges made concurring remarks.

It is not surprising that Jefferson Davis was a proponent of free trade. Going back half a century, the South had long opposed protective legislation, believing that such a policy was inherently harmful to an agricultural society. The history of the tariff that Davis challenged in his speech illuminates the vast changes that took place following the Civil War in regards to protective economic legislation. After Davis's Confederacy was defeated, policymakers refused to support any system of domestic free trade. In the political realm, protectionism became the standard economic system. Professional economists, however, opposed this unilateral shift in policy. Instead, they called for unrestricted trade both domestically and internationally. The federal government ignored their calls and maintained a high tariff policy throughout the

¹⁰ Quoted in *Ibid*, 1.

¹¹ *Ibid*, 1.

remainder of the century. This federal intractability can largely be traced to the consequences of the Civil War and the longer history of the Free Trade Movement in the antebellum period.

Instituted in 1816 following a call for a tariff by President Madison, the United States' first protective tariff sought to protect the market for manufactured goods in America from the dumping of cheap British products. The tariff was mild at best. Most duties averaged around 10%, while the highest duty placed on specific imports, the 30% tax on woolens and cottons, was only a small increase from the previous revenue tariffs. By taxing British textiles, Congress supported America's own fledgling textile industry in the Northeast. The tariff of 1816, surprisingly, gained widespread support in both the North and South, while also receiving the approval of industrial manufacturers and rural farmers.

One wing of Madison's party - the National Republicans - challenged the constitutionality of such a law, arguing that Congress had no legal authority to place duties on imports. However, the National Republicans offered the only real challenge to the passage of the bill. Industrial interests, often opposed to protective legislation for its effect on the importation of foreign machinery and advancements, enthusiastically supported the bill that would close off the American market to only their own goods. The passage of British tariff laws in the British West Indies also led many industrial leaders to support the passage of similar laws in the United States. If Britain did it, they argued, the U.S. should follow suit. Members of both the Federalists and the Democratic-Republicans, purportedly consumed by nationalist fervor in the wake of the war of 1812, supported the passage of such a tariff. The vote even received support from the southern states of South Carolina and Georgia, both of which had earlier opposed such a measure. Historians debate the exact reason that the tariff garnered so much support. Some argue that the national tariff was a response to British aggression in the War of 1812, and patriotic zeal

prompted its widespread support. Others claim that Madison's Democratic-Republican Party successfully convinced Southern farmers that a national tariff was essential for the national defense. Regardless of the reason, the tariff soon became the target of increasing criticism among Southern policymakers.¹²

The breaking point for tariff consensus occurred only three years later when the United States experienced its first major economic depression, dubbed the Panic of 1819. With the economy reeling from excessive public speculation on lands and the unrestricted issuing of paper money by state banks and governments, as well as the destabilizing Napoleonic wars in Europe, the Federal Government sought to rectify the depression through new tariff legislation. Desperate to stabilize the failing manufacturing industry, Henry Baldwin, the chairman of the House Committee on Manufactures, introduced a bill to Congress which called for even higher duties on imported items while repealing all internal taxes on industry in the United States. Furious with the assumed failures of a protective system, the congressmen from the southern states unanimously opposed the passage of the bill. Voting on the bill was split throughout the Northwest, Mid-Atlantic, and New England regions, and the bill barely managed to pass through the House before the Senate quickly killed it.¹³

This debate set up a decade of conflict over the maintenance of a protectionist economy in the United States culminating in the Philadelphia Convention of 1831. Uniting free trade activists from across the nation, the convention clarified a conception of free trade that sought to challenge Henry Clay's "American System" of protectionism. As historian William Belko

¹² For more on this debate among historians see, Thomas P. Abernethy, *The South in the New Nation, 1789-1819*, (Baton Rouge: University of Louisiana State Press, 1961), 422-434; George Dangerfield, *The Awakening of American Nationalism: 1815-1828*, (New York: Waveland Pr Inc, 1994), 15; Merrill D. Peterson, *The Great Triumvirate: Webster, Clay, and Calhoun*, (New York: University of Oxford Press, 1988), 70-74; William Belko, *The Triumph of the Antebellum Free Trade Movement*, (Gainesville: University Press of Florida, 2012), 3.

¹³ Peterson, *Great Triumvirate*, 70-76.

argues, the attendees of the convention left with the resolution that, “Free trade allows a nation to be truly independent; it promoted prosperity through peace and not war, whether war in the shape of military confrontation or in commercial retaliation.”¹⁴ While the relative success of an economic system of free trade promoting international peace is still debated to this day, the international political ramifications that these men attributed to a system of economics should not be understated. The principles of free trade, as encapsulated in Davis’ speech more than two decades later, promised a world that was so interconnected through trade and commerce that lasting peace would be ensured.

Following the convention, the political debate over free trade largely reflected regional boundaries. The newly made Whig party, which claimed large swathes of industrial support in the North, opposed the free trade policies of the Philadelphia Convention attendants. For two decades, the clash between protectionist and free trade ideologies ran parallel to the regional debates over territorial expansion and slavery. The Whig Party, buoyed by Northern support, favored protectionism as a means to promote the national growth of industry in the United States. Democrats in the South saw the tariff as a means to oppress Southern agriculture and imports.

Popular histories of the nineteenth century characterize it as a period of enforced isolationism among American policymakers and intellectuals. Especially in the antebellum years, these narratives of American history pit the northern states against the southern in a pitched battle for the future of the country. The South, filled with vast plantations and mired in the venality of chattel slavery, sought a modernity based in agricultural production and racial domination. The North, which prospered through expansive overseas commerce and manufacturing, envisioned a future of freedmen and industry. Although such a narrative neatly justifies the Civil War as a conflict for the future of a nation, one that was won by the “good

¹⁴ Belko, *The Triumph of the Antebellum Free Trade Movement*, 164.

guys” no less, it is not accurate. Southern advocacy for free trade, an inherently international policy, actively challenged the tariff legislation advocated by the Whig Party. In this way, the South invoked more cosmopolitan principles of global relations than the industrializing North, which sought to protect its fledgling industries from foreign competition. While this conflict between international economic principles still actively engaged economic thinkers of the time, as time went on, the political debate tended towards acceptance of free trade in the decade before the Civil War.¹⁵

Bereft of its founding generation, and destabilized by regional conflict, the Whig party began to decline in 1852. Southern free trade advocates, like Jefferson Davis, saw this as cause to rejoice. As indicated by the warm reception after his remarks, Davis’s advocacy of free trade garnered widespread political support among both French and American policymakers in the years leading up to the Civil War. The passage of a reduced tariff in 1854, which stipulated further reductions over the following decade, was another victory for free trade advocates. This widely held acceptance, curiously, often flew in the face of the still contentious intellectual debate over the tariff in American society. While there seemed to be a growing political consensus that the United States had industrialized to the point of effective competition with its transatlantic rivals, economists and intellectuals remained conflicted over the promise of free trade. Many intellectuals, including most prominently Henry C. Carey, the future economic advisor to Abraham Lincoln, saw the tariff as fundamental to a unique American system of growth.¹⁶

¹⁵ David M. Potter, *The Impending Crisis, 1848-1861*, (New York: Harper Perennial Press, 1963), 19-32.

¹⁶ For more information on the “American System” see Lars Magnusson’s *The Tradition of Free Trade*, (New York: Routledge, 2004), 106-112.

Carey was one of the most important economists in Antebellum America.¹⁷ A supporter of Hamiltonian economics, Carey believed that the United States required a unique economic system to support growth different from the laissez-faire system embraced in England. Carey believed, like Henry Clay, in an “American System” of economics. The tenets of this American system, as illustrated in Carey’s four-volume treatise *Principles of Political Economy*, were a high tariff to protect American industry, the creation of a National Bank to regulate internal trade, and regular federal subsidies for internal trade improvements such as roads and canals. In a later work, *The Harmony of Interests: Agricultural, Manufacturing, and Commercial* published only two years before Davis’ speech, Carey proclaimed that the tariff was not only sufficient for prosperity in America, but necessary. With an increasingly industrialized economy, the United States could not afford to open its ports to a flood of cheap European goods. “Protection,” Carey writes, “is a measure of necessary defence against a system that tends to lessen everywhere the value of labor... To any who doubt this, I would recommend an examination of the effects that would now result from the abolition of the tariff, and the substitution of free trade for the present imperfect protection. They could not but see it would close ever mill and furnace in the Union...”¹⁸ Ineffective tariff legislation, Carey argued, was the principle cause of the Panic of 1819. The Panic did not necessitate the dismantling of the tariff system; in fact it required the opposite. To support his argument, Carey pointed towards the Tariff of 1824, which seemed to stabilize the economy following the depression five years earlier.¹⁹ Although economists like Carey often remained in the political margins during the 1850s, the Civil War brought them to prominence.

¹⁷ For a more thorough analysis of Carey’s work see Joseph Dorfman, *Economic Minds in American Civilization, Part 2*, (New York: Viking Adult Publishers, 1949), 47-56

¹⁸ Henry C. Carey, *Harmony of Interests: Agricultural, Manufacturing, and Commercial*, (New York, Myron Finch Publishing House, 1856), 66.

¹⁹ *Ibid*, 58-66.

Secession shattered any hope for consensus over free trade in the United States. Upon seceding, the South adopted a national policy of free trade. Before the declaration of war, Congress proposed the Morill Tariff, named after Representative Justin Morill of Vermont who wrote the bill with the advice of Carey, which placed the highest duties on imported textiles and manufactures in American history. Bereft of almost all the Southern votes due to secession, the bill passed quickly through the House and Senate. With their opposing economic policies in place, the North and South fought the bloodiest war in American history. Upon a British recognition of their belligerency in 1861, the South continued to trade freely with their transatlantic neighbors, although the Union blockade took a harsh toll on both imports and exports.

This Southern adoption of a free trade policy would indirectly contribute to the evolution of the Virginius Affair more than a decade later. Upon the British recognition of belligerency, the Confederate government quickly sought to purchase British ships in order to strengthen the weak Confederate navy. The advent of the Civil War challenged Jefferson Davis' remarks in New York concerning a lasting bond of peace from global free trade. The same principles, however, did guarantee the expedient importation of war materiel to his newly made Confederacy.

One of these newly built warships, in fact, would become the very ship captured in 1873 by the Spanish. Built in 1864 on the river Clyde outside of Glasgow Scotland by the firm of Aitken Mansel of Whiteinch, the *Virgin* was a single mast, single deck, round stern steamer sold to Miles T. Steele of Louisiana – duty free it might added as well. Acting on behalf of the Confederacy, Steele instructed the ship to sail for New Orleans, where it was restocked as a blockade-runner. Running the Union blockade from Mobile, Alabama to Havana, Cuba, the

Virgin brought foreign supplies through the Gulf of Mexico and to Confederate outposts along the Mississippi. As the Confederate war effort waned, however, the *Virgin* was finally captured by Union ships on April 12, 1865.²⁰ She would later be de-commissioned and sold to the American John F. Patterson, secretly acting on behalf of Cuban revolutionaries, who renamed her the *Virginius*.²¹ The international progress of the *Virgin* illustrates the globally interconnected nature of American, both Union and Confederate, economics in the 1860s.

Domestically, the economic forces which affected the war have been examined in depth by historians for over a century; suffice it to say that the Union policy of reconstruction and national economic growth after the end of the war entailed a radically different conception of trade policy than the one put into place by the Confederacy. With reunification, Congress imposed the tenets of protectionism upon the defeated South. Indeed, it was around this time when the Free Trade Movement, as an official political campaign, fell out of favor. Principles of free trade economics were still maintained among some intellectuals, but the movement itself lost much of its cogency for several years.

Carey and likeminded intellectuals came to political prominence in the years following the Civil War. A high tariff remained in place for the next several decades, thanks in part to the intellectual movement that supported protectionism that came to dominate during the Civil War. During Reconstruction, American policymakers often blamed regional economic differences as the central reason for the Civil War. To remedy this purported problem, the government turned to economists who offered a national economic strategy. From 1865 to 1870, the majority of economists advocated for protectionism, which mirrored the strategies of policymakers.²²

²⁰ *Foreign Relations of the United States: Spain, 1874*, 1001-1002.

²¹ *Ibid*, 992.

²² For more information, see Dorfman, *Economic Minds in American Civilization*, 15-32.

As the years of radical reconstruction receded, however, a curious reversal of intellectual theory and political practice took place. America rapidly industrialized following the end of the Civil War. In under a decade, American manufacturing would overtake German production, and begin to approach the industrial production levels of Britain. Faced with this rapid industrial movement, many American intellectuals began to challenge a protectionist economic policy. Emblematic of this shift was the popular writer and thinker David Ames Wells. Schooled in classical economics, Wells was an ardent supporter of Henry Carey in the years before the war. Following the Union's victory, Wells was appointed to the newly created post of Special Commissioner of the Revenue.²³ As commissioner, Wells was tasked to oversee the maintenance of the Morrill Tariff legislation, reorganize and codify the new national income tax passed under Lincoln, and introduce both the tariff and the income tax to the quickly returning Southern states.

Following a few months in his office, Congress tasked Wells with the preparation of a report concerning rising inflation rates in the United States in the years following the Civil War. The report that Wells submitted largely blamed the ineffective tariff system put in place by Wells' mentor Carey. Although Wells did not fully break from a protectionist philosophy, he claimed that a high tariff rate in the United States discouraged foreign nations from importing American goods. Wells, as well as other intellectuals who supported his claims, was satisfied with a mild "revenue tariff", but thought it best to eliminate the protective legislation enacted during the war.²⁴ By doing so, Wells claimed, the United States could begin to compete for foreign markets traditionally dominated by Britain and, more recently, Germany. Wells' arguments also contain an implicit argument adopted by later twentieth century economists. If the United States espoused a policy of free trade, it could attempt to enforce a similar policy in

²³ Papers of David Ames Wells, Library of Congress. Roll 1.

²⁴ Ibid, roll 1.

protected nations. By connecting the importation policy of the United States to its exports, Wells' report signified a sea change in economic thought in the late 1860s from protectionism to free trade principles.

Building upon the political example of Wells, other prominent economic thinkers began to advocate free trade principles as a means for the United States to harness its new industrial power. Perhaps the two most prominent were writer Henry George and sociologist William Graham Sumner, who would eventually become the two most widely known economic thinkers in the nineteenth-century United States. George's books on economics addressed a popular audience; unions across the nation quickly adopted his economic principles in the face of government repression. His book *Progress and Poverty* advocated the abolishment of all taxes and duties. Instead, he argued, the government should install a flat-rate tax on private property. The book became a nationwide bestseller in the 1880s, as George's economic policies claimed to offer a means to reduce poverty while maintaining a high rate of industrialization. Sumner was George's intellectual foil. In his classic piece *What Social Classes Owe to Each Other*, Sumner championed a Social Darwinist conception of the economy, deciding that in the end the social classes owe each other exactly nothing. In a rapidly changing economic climate following the radical financial restructuring of the post-Civil War era, these two economists came to embody diametrically opposed visions of the future of America's domestic economic progress.

The differences between George and Sumner only extended so far however. Despite all of the polemic, both Sumner and George were passionate advocates for free trade both domestically and abroad. Historian Jeffrey Sklansky argues that both George and Sumner similarly articulated a new type of political economy for America in the late nineteenth century, one which elevated an active and involved market economy as the new locus for cooperation,

organization, and development.²⁵ Central to such a theory was a revised conception of free trade. For a market economy to function, they posited, an autonomous individual must be able to contract, buy, and sell with impunity in an increasingly globalizing market. In large part this meant the elimination of the tariff. Sumner's opposition to the tariff was further compounded by his Social Darwinist ideology. He viewed any restrictions upon social and economic interaction as fundamentally harmful to the human race.²⁶ While George did not abandon the idea of taxation wholesale, he saw almost all duties and taxes as harmful to the majority of citizens. By only taxing private property, George reasoned, the government could still function properly, and workers would evade poverty.²⁷

Although the conception of free trade would continue to be espoused among foreign policymakers in America, domestic tariff policy remained largely unchanged following Wells's report. Regionally based special interests in Congress challenged any meaningful changes to the tariff policy. As economic historian Joseph Dorfman writes, "Congress, as might be expected, witnessed much confusion as each special interest sought high tariff rates for itself and opposed extension for others."²⁸ Every Congressman in Washington sought to protect their own constituency's production from foreign competition, immobilizing any potential changes to the established protectionist economy. Due to this, Congress struck down legislation that followed Wells's tariff reduction proposal in 1867. The majority of the Republican Party, which won overwhelmingly in 1868, continued to advocate for Carey's economic system of protection. Despite widespread intellectual support for free trade after 1868, the politics of the late

²⁵ Jeffrey Sklansky, *The Soul's Economy: Market Society and Selfhood in American Thought, 1820-1920*, (Chapel Hill: University of North Carolina Press, 2001), 48.

²⁶ William Graham Sumner, *What Social Classes Owe to Each Other*, (New York: Harper & Brothers, 1883), 14.

²⁷ Henry George, *Progress and Poverty: An Inquiry Into the Cause of Industrial Depressions and of Increase of Want with Increase of Wealth*, (New York: Robert Schalkenbach Publishers, 1879), 328.

²⁸ Dorfman, *Economic Minds in American Civilization*, 10

nineteenth century would be characterized by exclusively protectionist legislation. In many cases, tariffs would actually be increased as each region of the United States sought to protect its local products.

Shortly after Grant's ascension to the presidency, Congress quietly disposed of Wells when they allowed the act that created his office to lapse.²⁹ Paralyzed by the regional Congressional gridlock, American politicians and businessmen believed it impossible to change the tariff policy, so they sought disparate and small-scale domestic resolutions to economic crises. Until the turn of the century, there were no significant reductions in the national tariff. Gamaliel Bradford, a Bostonian intellectual, saw this as evidence that politicians and businessmen were small-minded and they ignored the broader claims of economists. He concluded that, in the late 1860s and early 1870s, "The great mass of men, whether engaged in trade or not, [had] but little faith in the existence of any principles or laws governing the movements of the currency and monetary affairs. They looked upon inflations and contractions, upon stagnations and crises, as the results of the blind working of some unseen power..."³⁰ The short-lived unity between domestic American political policy and prominent intellectual economics receded again.³¹ In the realm of foreign policy, however, the international aspects of free trade policy would soon come to dominate the actions of the State Department. With the ascension of Hamilton Fish as the Secretary of State, U.S. foreign policymakers embraced the vision of an interconnected world made by free trade economics.

While the year of 1868 signaled the end of a domestic economic policy of free trade in the United States, the opposite was true across the Atlantic in Spain. In September of 1868, at almost the same time that the Republicans were sweeping Congress in the United States, a loose

²⁹ Papers of David Ames Wells, Library of Congress. Roll 2.

³⁰ Cited in Dorfman, *Economic Minds in American Civilization*, 14.

³¹ For more information on this paradox, see Magnusson, *The Tradition of Free Trade*, 116-122.

coalition of Spanish Liberals, Republicans, and moderates with the effective support of the army under Generals Francisco Serrano and Juan Prim overthrew Queen Isabella II and instituted the first system of government in Spain in over half a century not controlled by the Bourbon dynasty. In many ways, the Spanish Liberal Revolution, which was natively dubbed “La Gloriosa” (The Glorious), was fought for the enactment of free trade principles.

Starting in 1864, the Spanish economy began to decline precipitously. Newspapers and agitators in Spain blamed the high tariff put in place by the government for the economic malaise. By 1868, the wavering Queen Isabella had failed to support either the Liberal or Republican platforms for national tariff reform, and instead increased the policy of protectionism put in place by her predecessors.³² Responding to the widespread economic downturn, members of the “escuela economista”, a group of liberal economists based in Madrid, began to advocate the institution of radical free trade measures, as had been put into place in Britain almost half a century earlier.³³ Following the revolution, General Serrano and the prominent leaders from the Republican and Liberal parties looked to the escuela economista for economic guidance. The policy advanced by the economic school was two-fold. First, they advocated a reformation of internal domestic trade in Spain, integrating the industrial centers of Madrid, Barcelona, and the Asturian region through transportation such as railroad.³⁴ Second, they recommended the dismantling of Spain’s high tariff system, lowering the protective tariff on imports to ten percent or less.³⁵ Industrial interest groups in Spain, who opposed the institution of free trade policy, widely challenged these new practices, but the newly gained prominence of free trade economics in Spain quelled any major protests.

³² Antonio Tena Junguito, “Tariff History Lessons from the European Periphery Protection Intensity and the Infant Industry Argument in Spain and Italy, 1870-1930,” *Historical Social Research* 35 (2010), 357.

³³ Joseph Harrison, “The Economic History of Spain since 1800,” *The Economic History Review* 43 (1990), 84.

³⁴ James Simpson, “Economic Development in Spain, 1850-1936” *The Economic History Review* 50 (1997), 354.

³⁵ Harrison, “The Economic History of Spain since 1800”, 87.

As the revolutionary ideology behind “La Gloriosa” faded away, the years of 1869-1875 led to swift regime changes in the Spanish government. The Liberal party, which had been temporarily overwhelmed by revolutionary Republicans, returned to power in 1870, following the coronation of Italian Prince Amadeo of Savoy as the new King Amadeo I of Spain. Backed by industrial interests, the Liberal party sought to reinstate a protective industrial tariff. Amadeo’s Chief Minister of Finance, Laureano Figuerola, was quickly overwhelmed in trying to implement the radical economic policies advocated by the *escuela economista*, which still found favor among the Spanish populace, while simultaneously pleasing the dominant Liberal party. Attempting to satisfy both, Figuerola instituted a mildly reformed tariff. One American magazine at the time recounted the response to this event, writing:

Since the Revolution, Figuerola, the Finance Minister, has lowered the tariff, and diminished the differential duties in favor of foreign flags. It is too early, as yet, to know what improvements this may have produced; but Figuerola’s mild free trade innovations have been met by furious opposition; and although well meaning, he cannot be called a successful finance minister. He was obliged to retire in the face of the overwhelming difficulty of making both ends meet.³⁶

Figuerola attempted to open up domestic Spanish trade to foreign products and investment, however he garnered little support among the powerful players in Spanish politics.

Although Spain’s domestic economy vacillated between free trade and protectionism during these decades, this ambiguity did not extend to the commercial interests which most interested American manufacturers and investors in the nineteenth century: Spain’s Caribbean imperial possessions. Cuba in particular remained under an extremely high protective tariff during the 1870s, and many Spanish policymakers sought to actively increase protectionism in the colonies as a means of deterring growing American influence.³⁷ Although the government of

³⁶ “Spain, and Her Revolution”, *The Eclectic Magazine of Foreign Literature*, April 1871, 13.

³⁷ James W. Cortada, *Spain and the American Civil War: Relations at Mid-Century, 1855-1868*, *Transactions of the American Philosophical Society* 70 (1980), 102.

Spain would change four times over the following decade, the principal aims of Spanish diplomacy in the western hemisphere would continue to be the maintenance of their colonies.

Much like the passage of the *Virgin* across the Atlantic, and its incipient involvement in the American Civil War, Spain's persistent desire to maintain its imperial possessions can be illustrated by another ship, the *Tornado*. Constructed eight months before the *Virgin* on the same river Clyde in Scotland, the *Tornado* was originally named the *CSS Texas*. As its name would suggest, the *CSS Texas* was contracted for use by the Confederacy as a steam cruiser raider. Delays in its production, however, led to a two-year postponement of commission.³⁸ By the time the ship was prepared for battle, General Lee had surrendered at Appomattox. With the Confederacy dissolved, the British government seized the ship and sold it to the nation of Chile, which was embroiled in the Chinha Islands War with Spain. It was renamed the *Pampero* by its Chilean purchasers.³⁹ Embarking from Glasgow, the newly dubbed *Pampero* never made it to its destination in Chile. The Spanish government was desperate to maintain a semblance of order among its former colonies, most likely in a means to legitimate their remaining colonial holdings. In order to do so, Spain made the capture of all warships destined for Chile the highest priority.⁴⁰ In 1870, the *Pampero* was captured off the coast of Madeira. Again renamed, the *Pampero* became the *Tornado* and was tasked as a screw corvette with a mission to patrol the Caribbean. The *Tornado* was heavily involved throughout the Cuban revolution, and its persistent pursuit of filibustering ships, like the *Virginus*, would eventually lead to the affair

³⁸ *FRUS: Spain 1874*, 997.

³⁹ Jack Greene, *Ironclads at War: The Origin and Development of the Armored Battleship*, (Cambridge: Da Capo Press, 1998), 276.

⁴⁰ *FRUS: Spain 1874*, 999

itself. In addition to patrolling for filibusters and pirates, the *Tornado* also enforced and legitimized Spain's increasingly steep tariff policy in Cuba.⁴¹

Instituted as regent following Isabela's abdication, Juan Prim continued to antagonize American businessmen seeking to export manufactured goods to Cuba by increasing the steep tariff. Caleb Cushing, a prominent American lawyer, avid enthusiast of Spanish culture, and future ambassador to Spain, chastised this type of economic policy in an unpublished article entitled "Spanish Monkeys and American Cats," dated October 1870. Cushing chastised the imperial economic policies of the Spanish government, which enforced high tariffs on goods from any nation other than Spain. "General Prim's chestnuts have been roasting for over a year," Cushing writes concerning the initial promises towards tariff reduction in Cuba made by Spain to the United States, "and must nearly be ready for the table. They were put into the oven the day Isabela left the throne... though our debt to him may be unclear, the reduction of our taxation [in Cuba] must be stopped. Our already emaciated commerce with Cuba has been repeatedly stifled through the games of Spain..."⁴² Indeed, Cushing continues, this type of imperial policy was at odds with Spain's newly domestic tariff reductions. Cushing concludes his article with the claim that Spain, perhaps grasping at its once glorious imperial past, was desperately trying to maintain its colonies in an outdated attempt to achieve economic prosperity.

Cushing's conception of Spain was echoed in popular discourse. One magazine of the period put forth a similar argument to Cushing, writing, "... it is certain that the close of the eighteenth century found the nation [of Spain] entirely dependent for its vitality and prosperity on the monopoly of trade with its possessions in the hemisphere. Privileged cities in Spain could alone carry on commerce with the colonies." As Spain's remaining Latin American possessions

⁴¹ Richard H. Bradford, *The Virginius Affair*, (Boulder: Colorado Associated University Press, 1980), 28.

⁴² Papers of Caleb Cushing, Library of Congress. Box 209, folder 2.

revolted, in the 1820s and 1830s, the remnants of the empire required an even firmer grasp to legitimate Spanish economic policy. The article continues, “When nothing remained of the vast Spanish possessions but Cuba, Puerto Rico, and the Philippine Islands, untaught by the past, the energy, and the mercantile spirit, the capital of the Spaniard still clung to monopoly as the only means of prosperity.”⁴³ This American conception saw Spain as a hypocritical imperial power, allowing limited free trade within its own domestic industrialized markets but restricting American exports to the nearby Cuba.

These varying international conceptions on the limits of free trade would finally clash through the incident of the *Virginius* Affair. The long and farflung histories of the *Virginius* and the *Tornado* would coalesce into an international incident and the execution of dozens of men. Infused with the principles of free trade economics, the American government challenged Spanish imperial control through a system of free trade foreign policy.

⁴³ “Cuba and Spain”, *Putnam’s Magazine*, January, 1870, 4.

Chapter 2 The Making of the Affair

When the *Tornado* captured the *Virginus* on October 30th, 1873, it was only the latest in a long history of conflicts centered on the Spanish colony of Cuba. A confluence of economic factors brought the United States into contention with Spain in the Caribbean, but important political shifts in both nations preceded a new dynamic of U.S.-Spanish relations. American-Spanish relations in the nineteenth century, following the Spanish withdrawal from mainland North America in 1812, repeatedly converged on Spain's colonies. The sweeping revolutions that freed the majority of Latin America from Spain's imperial control only focused Spanish attention on retaining the vestiges of their empire. Perhaps because of this, Spain enforced a mercantilist economy on Cuba: forbidding the propagation of manufacturing and industry while placing high tariffs at Cuban customs houses on imports from anywhere but Spain.

One of the first flashpoints of Cuban-Spanish hostility which included the United States were the failed revolutions of Narciso Lopez, a native Venezuelan with ties to wealthy Spanish merchants. Lopez was drafted into the Spanish army at the age of fourteen, conscripted from the ranks of Simon Bolivar's independence troops after they fled from a battle near Valencia, Venezuela. Lopez took quickly to the Spanish army, rising to the rank of Colonel by age twenty-one before being assigned to civil service. After two decades working in Spain, Lopez was sent to Cuba. Little is known about what happened to Lopez while working as the assistant to the

General-Governor in Havana, but by 1848, Lopez fled to the United States claiming international asylum, and vowing to end Spanish imperial claims in Cuba.⁴⁴

Lopez became one of the most prominent filibusterers – a private actor who engages in an unrecognized military expedition in order to foment revolution – of his time. Departing from New Orleans, and often outfitted by wealthy slaveowners, Lopez went on several expeditions from 1848 to 1851 to Cuba in order to foster a revolution against Spain. Lopez’s revolutionary rhetoric did not extend, however, to the elimination of the system of chattel slavery in place in Cuba at the time. In the middle of the nineteenth century, Britain had gradually embraced a policy of emancipation among its colonies, and many Southerners worried that Spain would follow suit. Southern policymakers feared that British emancipation policies could hinder any type of slave-based expansion into the Caribbean. Many wealthy Southerners believed that, if they supplied Lopez and guided him properly, his revolution would quickly turn into American annexation and the addition of another slave state to the union.⁴⁵ This approach to foreign policy was perhaps best summed up by an aging Daniel Webster, serving as the Secretary of State in 1852, who wrote to his counterpart in France, Count Sartiges, “The people of the South, I hardly need to tell you, are in favor of the acquisition of Cuba, in demanding that an effort be made for the acquisition by legitimate means...However there is in our people a sort of vulgar reluctance to make conventions with crowned heads unless absolutely necessary...”⁴⁶ Young American adventurers from the South also joined Lopez’s filibustering tours, eager to realize the hopes of their region without further relations with the “crowned heads” in Europe.

⁴⁴ Robert Granville Caldwell, *The Lopez Expeditions to Cuba, 1848-1851*, (Princeton: Princeton University Press, 1915), 1-18.

⁴⁵ *Ibid*, 40.

⁴⁶ Daniel Webster to Eugene de Sartiges, April 23, 1852. U.S. State Department Archives, Dispatches to the Minister of France.

These hopes remained unrealized. Lopez was finally captured by Spanish forces in 1851 and was publicly put to death in Havana along with several American citizens. When confronted by an irate public, and a vitriolic Southern lobby demanding war, President Fillmore admitted that he had no knowledge of Lopez's crimes, but Spain undoubtedly had justification to pursue the revolutionary. Fillmore refused to pursue any type of responsive policy towards Spain.⁴⁷ Instead, Webster negotiated a tripartite treaty with France and England that guaranteed that the U.S. would restrict further filibustering missions on the condition that Spain would never cede Cuba to France or England.⁴⁸ This agreement sought to stave off future conflict over the international expansion of slavery in the hemisphere. Many slave-owners in the United States worried that if Cuba was ceded to England, British anti-slavery laws might progress north from the Caribbean.⁴⁹ As the slavery debate was already raging domestically in the 1850s over territorial expansion westward, Webster's treaty was an attempt to placate Southern slaveholders interested in maintaining the status quo of slavery in the Caribbean.

Only three years later, however, Cuba would again be the subject of American foreign policy concerns. The violent failure of the Kansas-Nebraska Act in the United States left the newly elected President Pierce unsure on how to proceed with Caribbean expansionism. Initially in favor of Cuban annexation, Pierce sent future president James Buchanan, then serving as the U.S. Minister to Britain, to meet with the U.S. Ministers to France and Spain at Aix-la-Chapelle in the Rhineland in order to discuss a solution to the "Cuban problem." Buchanan and his compatriots drafted the now famous Ostend Manifesto, which offered several steps towards U.S. acquisition of Cuba. Should the Spanish government refuse another offer for purchase, the

⁴⁷ A. A. Ettinger, "The Proposed Anglo-Franco-American Treaty of 1852 to Guarantee Cuba to Spain", *Transactions of the Royal Historical Society* 13 (1930), 149.

⁴⁸ *Ibid*, 168.

⁴⁹ Matthew Pratt Guterl, *American Mediterranean: Southern Slaveholders in the Age of Emancipation*, (Cambridge: Harvard University Press, 2013), 11.

Manifesto claimed, as had been done earlier in 1848, the U.S. should seek to obtain Cuba via extralegal means, either through annexation or a declaration of war against Spain. Although the provisions of the Manifesto never came into effect, and were widely castigated by the Northern states and European nations, the centrality of Cuba in American-Spanish foreign relations cannot be understated. However, as with most issues in the years directly before the Civil War, the issue of Cuba receded in the wake of increasingly violent conflicts over the future of slavery in the nation.

Following the Civil War, American interest in Cuba reignited. U.S. involvement in Cuba following the Civil War became focused on two fronts. First, similar to antebellum years, many American policymakers sought to incorporate Cuba into an American economic system. Many saw the annexation of Cuba as the best means to achieve this, while others tried to liberalize the trade policies installed by Spain. Instead of basing these expansionist aims in the rhetoric of slavery, however, Northern policymakers invoked the principles of the Founding Fathers. Both John Adams and Thomas Jefferson were greatly interested in Cuba, and Adams even went so far as to claim that Cuba and its Spanish colonial partner Puerto Rico were “indispensable to the continuance and integrity of the union itself.”⁵⁰ Adams believed that hemispheric expansion could only strengthen American independence. Second, the scions of American foreign policy in Cuba sought to finally abolish slavery in the colony. In 1820, the king of Spain had abolished the transatlantic slave trade in Cuba, though the colony still functioned on a slave-based economy of plantation labor. In 1868, two separate events in the United States and Cuba only one month apart would conspire to force even greater American involvement in Cuba: the election of Ulysses S. Grant to the American Presidency, and the beginning of the Ten Years War in Cuba.

⁵⁰ Lars Schoultz, *Beneath the United States: A History of U.S. Policy Toward Latin America*, (Cambridge: Harvard University Press, 1998), 58.

Grant swept to the presidency in 1868 with 214 of 294 electoral votes. As a hero of the Civil War and, initially, an ardent annexationist, Grant's two terms as president came at a unique time in Cuban-Spanish-American relations. Throughout his tenure as president, Grant swayed back and forth on matters of foreign policy as individual advisors gained prominence in his administration. Early in his presidency, the United States pursued a policy of annexation in the Caribbean, including Cuba. Grant's belligerent Secretary of War, John Rawlins sought to fill the power vacuum left by Henry Seward in the presidential cabinet and expressly advocated this policy of annexation. Grant's aristocratic Secretary of State, Hamilton Fish, often tempered Rawlins's approach to foreign relations. After the successful negotiation of several international cases, and Rawlins's death in 1870, Fish came to dominate Grant's cabinet. A distinguished New York lawyer, with previous experience in the Senate, House, and Governorship, Fish was actually Grant's third choice for Secretary of State, and Fish only accepted reluctantly. As the years went by, however, Fish's continued successes validated his position.

Historian Allan Nevins, whose 1936 Pulitzer Prize winning biography of Fish remains unequalled, wrote of Fish's appointment, "To many politicians, watching jealously the initial steps of a new and unpredictable Chief Magistrate, the choice was a staggering surprise. To the press and public it was a decidedly refreshing surprise. But it astonished nobody more than Hamilton Fish himself."⁵¹ Even the position itself, the Secretary of State, had come under serious scrutiny at the time. While under the leadership of Fish's predecessor, William Seward, the State department had flourished. Seward, however, broadly advised Lincoln on domestic affairs, and the importance of foreign policy to many U.S. officials receded in the wake of the Civil War. Indicative of this, perhaps, was the location of the State department itself: a former orphanage,

⁵¹ Allan Nevins, *Hamilton Fish: The Inner History of the Grant Administration*, (New York: Dodd, Mead & Company, 1936), 1.

removed by several blocks from the Capitol.⁵² Some policymakers even advocated the dissolution of the State department following Seward's departure, claiming that the laying of the first transatlantic cable in 1868 made the Secretary's position redundant; the president could communicate directly with foreign leaders.⁵³ By the end of his term, Fish had laid all of these complaints to rest.

Contented with a long, if largely unimpressive, political career, Fish had decided to retire by 1858 as a member of the dying Whig party. Fish could not assist militarily with the ensuing war; he was over sixty years old by 1861. Instead, Fish participated in fundraisers for the troops. For the most part, though, the aging Whig abstained from political involvement. By 1869, his appointment, Fish had been out of politics for more than a decade. In fact, Fish thought his appointment nothing more than a placeholder, a means to satisfy the moderate Republican supporters of Grant. Upon arriving in Washington, Fish took only temporary quarters, and wrote to his ailing wife in New York that he would return in "at most a few months time."⁵⁴ He would stay for eight years. In that time, Fish became the most prominent member of Grant's cabinet, and one of the most instrumental policymakers operating in response to the evolving Cuban crisis. Despite his Whig background, Fish would ground his foreign policy in the principles of free trade policy.⁵⁵

When, in 1831, influential policymakers from across the United States convened in Philadelphia at the first national Free Trade Convention, they conceived of a unique system of American free trade, one that purportedly embodied the moral aims of the Declaration of

⁵² Bradford, *The Virginius Affair*, 4.

⁵³ Warren Frederick Ilchman, *Professional Diplomacy in the United States, 1779-1939*, (Chicago: Chicago University Press, 1961), 20-24.

⁵⁴ Hamilton Fish to Julia Fish, February 4, 1869. Papers of Hamilton Fish, Library of Congress.

⁵⁵ For further examples of this relationship between political policy and economic principles see, Magnusson, *Tradition of Free Trade*, 56-68; Belko, *The Triumph of the Antebellum Free Trade Movement*, 3-16.

Independence. Historian William Belko sums this up, writing that the American strand of free trade was different from its European counterparts. “Not only would free trade advance the cause of mankind, but it also guaranteed good government, it promoted and strengthened virtues inherent to a republican people, a democratic government, a nation of laws, not men.”⁵⁶ This rhetoric was highly idealized and often unclear about how to achieve lofty free trade aims. Further, this vision was not restricted to free traders. Free trade advocates envisioned a utopian society of peace, however protectionist economic principles did not necessarily lead to the opposite.

While the practicality of their goal is suspect, the conception of international relations that free trade activists espoused resonated with the foreign policy practices of Hamilton Fish. This conception of free trade valued each nation’s commerce equally, often to the benefit of the more wealthy nations. Free traders desired the elimination of trade barriers, one of Fish’s foreign policy principles. And perhaps more importantly, this conception of free trade economics promoted prosperity through peace, and not war. Fish’s insistence upon mutually agreed arbitration as a means to resolve conflict, while not necessarily a free trade policy, consistently sought the liberalization of trade as a settlement among the parties. Although Jefferson Davis idealized the effectiveness of the economic policy, Hamilton Fish and his approach to diplomacy largely reflected the intellectual spirit of Davis’ remarks that called for peace through negotiation and recognition of mutual interest. In many ways, Fish’s adoption of such principles mediated the annexationist tendencies of President Grant and managed to diffuse international tensions from escalating into war on multiple occasions.

One of the earliest international conflicts of Fish’s tenure as Secretary of State aptly demonstrates his commitment to free trade principles of foreign policy. In an unprecedented

⁵⁶ Belko, *The Triumph of the Antebellum Free Trade Movement*, 164.

maneuver in international law, Fish brought a legal case against the nation of Britain for crimes against American trade in an action called the Alabama Claims. Like the *Virinius* Affair, the Alabama Claims began with a ship. Indeed, another ship constructed in England for the Confederacy. The *CSS Alabama*, however, was not constructed on the river Clyde like its erstwhile compatriots the *Virgin* and the *CSS Texas*. Instead, John Laird and Sons built the Alabama in England at Birkenhead in 1862, all the while under protest by Charles Francis Adams, at the time serving as the U.S. Minister to France. Mounting the colors of the Confederacy once she reached international waters, the *Alabama* became one of the most dreaded raiding ships in the Confederate fleet. While the *Virgin* was a blockade-runner, the *Alabama* was commissioned to destroy Union commercial trade in the Atlantic and Caribbean.

Although the Alabama was sunk in the summer of 1864, its legend lived on. In 1869, the United States claimed an indemnity from England in response to the collateral damage caused by the *Alabama*. By allowing the ship to leave its docks, the U.S. claimed, England was partially responsible for the losses of American shipping interests. In the discussions on the Senate floor over possible ways to address the issue, Charles Sumner, head of the U.S. Senate Foreign Relations Committee, proposed two options: either the British pay an indemnity of two billion dollars for the damages done to American trade, or they cede Canada to the United States.⁵⁷ While a two billion dollar indemnity claim was widely recognized as excessive, Sumner's proposal for any type of indemnity gained widespread support. Such a resolution was strongly favored by shipping interests in Massachusetts, who sought a cash indemnity for their losses or, if Canada were to be ceded, saw the northern nation as a ripe location for investment. American expansionists, like Grant, also favored such a resolution. England obstructed the negotiation of

⁵⁷ Charles Sumner to Caleb Cushing, November 15, 1871. Caleb Cushing Papers, Library of Congress. Box 110, folder 2.

any type of settlement for the claims. One reporter, conveying the indignation of Americans, wrote, “It is undoubtedly true that the facilities afforded the rebels in English ports *created* the rebel navy – that but for them the rebels would have no privateers afloat to prey upon our commerce – and our civil war would have ended at least a year sooner than it did.” Perhaps reflective of the general sentiment of injustice in the nation concerning the claims, the reporter concluded that the United States should give upon indemnity claims against Britain, “what we need is *an immediate declaration of War.*”⁵⁸

Apparently unperturbed by the belligerent backlash across the nation, Fish met with British lawyer Sir John Rose and organized the appointment of a joint high commission to meet in Washington to settle the dispute.⁵⁹ Grant appointed six American commissioners, including Fish, to attend the meeting. While newspapers clamored for war or annexation, Fish and his compatriots emerged from the commission with the Treaty of Washington.⁶⁰ Fish’s treaty resolved the tensions surrounding the *Alabama* peacefully, and without annexation. The treaty set up an independent arbitration panel, to be held in Geneva the following year, for the consideration of indemnities; an adjudication of a dispute over fisheries in Nova Scotia which had long caused conflict with American shippers; and the free navigation of all rivers which intersected America and Canada.⁶¹ In his later work, John Bassett Moore, scholar of international law and judge on the World Court, called the treaty, “the greatest treaty of actual and immediate arbitration that that world had ever seen...”⁶² By this point in his life, Moore had already

⁵⁸ “The Alabama Claims”, *New York Times*, November 12, 1869, 1.

⁵⁹ Hamilton Fish to Sir John Rose, December 8, 1871. Hamilton Fish Papers, Library of Congress. Box 310, folder 1.

⁶⁰ For a much more in-depth treatment of the treaty and how it was negotiated see Adrian Cook, *The Alabama Claims*, (Ithaca: Cornell University Press, 1975); Thomas Bingham, “The Alabama Claims Arbitration”, *International and Comparative Law Quarterly* 50 (2005), 13-40; and Nevins, *Hamilton Fish*, 320-460.

⁶¹ The body of the text is contained in *United States Statutes at Large*, “Treaty of Washington, 1871”, 31-37.

⁶² Nevins, *Hamilton Fish*, xv.

witnessed the arbitrations following several dozen wars in Europe, as well as the Treaty of Versailles.

In almost all of its particulars, the Treaty of Washington reflects the particular free trade foreign policy employed by Fish. First, the treaty resolved a conflict over trade and shipping interests: America's main complaint was that the British-built *Alabama* excessively deterred American trade during the Civil War. This mediation resulted in broader free trade agreements between America and Britain, demonstrating the free trade goals of Fish. The treaty guaranteed economic opportunities for both Britain and the United States through the negotiation of free passage along North American Rivers and the resolution of fishery disputes in the northern United States. The general de-militarization of the U.S. - Canadian border and the ensuing potential for industrialization in the Great Lakes region also laid the groundwork for increasing economic interconnectedness between the United States, Canada, and Britain, making any type of military conflict increasingly unlikely.⁶³ The treaty also embodied the utilization of laws, and not soldiers, to accomplish international aims. By arbitrating a serious legal matter through the use of neutral parties and policymakers, the treaty even established central tenets of international law that would later be codified at the 1878 Congress of Berlin. The negotiation of the treaty, and subsequent settlement, calmed Anglo-American tensions in the nineteenth century which had long been strained by the aftermath of the War of 1812. Lasting over three years, the long-term negotiations around the Alabama Claims demonstrate Fish's commitment to peaceful resolution, and his success in doing so. Conflict with another of America's transatlantic neighbors, Spain,

⁶³ Historian Bradford Perkins identified the resolution of the Alabama Claims as the first piece of, what he termed, the "Great Rapprochement", the eventual aligning of Anglo-American political and social policies over the nineteenth and twentieth centuries. The increasing interconnectedness of social practices, Perkins concluded, would result in decades of transatlantic peace between the once warring nations of Britain and America. For a more thorough treatment of this theory see, Bradford Perkins *The Great Rapprochement: England and the United States, 1895-1914*, (New York: Scribner, 1961).

still served as a source of tension between the two nations, one that would continue to torment Fish long after the Treaty of Washington. As they had throughout the past half-century, Spanish-American conflict once again centered on Cuba.

In 1868, revolution broke out in Cuba. Meeting at the house of wealthy plantation owner Carlos Manuel Cespedes, several dozen Cuban landowners proclaimed independence for their nation from Spain.⁶⁴ Buoyed by economic support from Cuban expatriates in New York, these Cuban revolutionaries espoused the free trade ideology demonstrated by Fish. They castigated Spain for their continuance of slavery, excessive taxes, and the isolationist imperial policy enforced on Cuba.⁶⁵ Either unable or unwilling to send troops to the eastern provinces, where Cespedes' troops began to seize Spanish forts, the Spanish government instead created a force of native soldiers named the *Voluntarios* (Volunteers). Put in place before the fall of Queen Isabela II, later in 1868, the *Voluntarios* tried to stamp out rebellion through increasingly violent means.⁶⁶ With the swift regime changes back in Madrid, however, the *Voluntarios* refused to recognize the regency of General Juan Prim and, instead of obeying orders from Madrid, began to brutally execute any Cubans who sought to support Cespedes' rebels. *Voluntarios* executed women and children in Havana suspected of housing rebel sympathies, forced citizens in the streets of Havana to sing *Viva Espana* on pain of death, and would frequently commit acts of mass violence simply to discourage further rebel support.⁶⁷ Horrified by the atrocities, the government in Madrid appointed a new Captain-General to oversee military action in Cuba. Upon arriving in Havana in June, 1869, he was forced to leave by the *Voluntarios*, supposedly

⁶⁴ Hermino Portell Vila, *Cespedes: El Padre de la Patria Cubana*, (Madrid: Espasa-Calpe, 1931), 72-78.

⁶⁵ *FRUS, Spain, 1874*, 844.

⁶⁶ Daniel Sickles to Hamilton Fish, August 26, 1871. Consular Dispatches from Spain, National Archives at Waltham. Box 3, roll 4.

⁶⁷ For a full, if biased, contemporary account of violence committed by the *Voluntarios*, see, *Book of Blood* (1873) by the Cuban Junta of New York.

his very own troops. Each successive colonial governor essentially became a puppet for the military authority of the *Voluntarios*, and Madrid was forced to accept the arrangement.

After two years of fighting and conflict, the Cuban revolution slowly shifted from an insurgent war to a more traditional military conflict. Barricaded in eastern Cuba, the revolutionary forces set up a provisional government and elected Cespedes as their president. Cespedes' brother-in-law, Manuel Quesada, was elected as commander-in-chief of all revolutionary forces. The new government even printed its own money.⁶⁸ Settled along regional boundaries, the war became a stalemate, continually drawing off Spanish and Cuban resources. To force the issue, many Cubans – both in Cuba and in the United States – turned to American policymakers for a solution to the bloodshed on the island. If it came to popular opinion, the U.S. Consul in Santiago concluded, the majority of Cuba would vote for, “annexation by the U. States should the Spanish government not be able to subdue the rebellion.”⁶⁹ Already harboring annexationist tendencies, President Grant, along with Secretary of War John Rawlins, quickly supported the concept of annexation. At the very least, the recognition of Cuban belligerency, and thus granting the Cuban revolutionaries international support, seemed very attractive to American policymakers. On April 10th, 1869, the House of Representatives even passed a resolution advising the President to recognize belligerency in Cuba, with hopes that such a strategy would result in eventual annexation. Fish opposed such measures. Opposed to annexation in general, as would fit his free trade principles of diplomacy, Fish saw that Cuba posed several particular problems for a State Department still embroiled in the resolution of the Alabama Claims.

⁶⁸ Bradford, *The Virginius Affair*, 10.

⁶⁹ U.S. Consul to Santiago to Hamilton Fish, August 8, 1869. Consular Dispatches from Cuba, National Archives at Waltham. Box 1, roll 2.

First and foremost for Fish, any recognition of belligerency in Cuba would harm the ongoing negotiations of the Alabama claims. International custom dictated that belligerency should only be granted to a political entity widely recognized as a nation. The South, in all of Lincoln's rhetoric at the start of the war, was not an independent nation but a rebelling group of states. England's recognition of Southern belligerency was equivalent to their acceptance of the Confederacy as a nation. The Spanish newspaper *La Constitution* pointed out that one of the key claims in the case of the *Alabama* was this purportedly premature recognition of the belligerency of the South by England:

... it must be remembered that England recognized the belligerency of the Southern States in the American civil war. Now, applying these stipulations to the American powers, we are in our in right in exacting from those governments [America and Britain] the strict fulfillment of these rules in regard to the Cuban rebels.⁷⁰

If the United States were to recognize the belligerency of Cuba, they would be acting in almost the same manner as England had in America's own civil war. Following the House resolution, Grant ordered Fish to draft a statement recognizing Cuban belligerency despite Fish's protests. In August 1869, Grant left the statement with Fish before going on a holiday. While away, Grant's Secretary of War, and annexationist supporter, John Rawlins passed away. In the aftermath of Rawlins' passing, Fish lingered with the statement and, eventually, abandoned it all together.⁷¹ With his main ideological opponent gone from the cabinet, Fish was able to further implement his strategy of free trade foreign policy.

Ideologically, Fish also saw little reason to support American involvement in Cuba. The Cuban revolutionaries, barricaded in the mountains of eastern Cuba, claimed no ports, had little

⁷⁰ Translated text contained in Daniel Sickles to Hamilton Fish, August 26 1871. Original text from *La Constitution*, July 18th, 1871.

⁷¹ Nevins, *Hamilton Fish*, 430-470.

manufacturing, and only a small-scale provisional government. Recognizing their belligerency would not only destabilize America's claims against Britain and further antagonize Spain; such an action offered almost no economic benefit to the United States. Fish, again demonstrating an embrace of free market ideology, saw it as a bad investment. Personal and political elements also colored Fish's policy of neutrality. Fish's key contact in Madrid was U.S. Minister to Spain General Daniel Edgar Sickles, and Fish had long learned to distrust the self-proclaimed Civil War hero.

Sickles was a man made for history. A moderately successful politician in his home state of New York, Sickles married relatively late in life, at the age of thirty-four, to Theresa Bagioli. His married life consisted of various affairs, both by Sickles himself and his wife, and several public scandals culminating in Sickles' murder of his wife's lover in cold blood. After discovering his wife's indiscretions, Sickles forced Theresa to sign a confession of her sins, and he patiently waited in his house until Philip Barton Key, the son of Francis Scott Key and Theresa's lover, approached the house for a dalliance. Upon giving a pre-arranged signal, Sickles, then serving as a member of the U.S. House of Representatives, walked into the street and shot Key in the heart. Sickles was acquitted on all charges of murder under the first successful use of an insanity plea in American legal history.⁷² Sickles's career, both in the military and politics, would continue to be characterized by similar rash decisions. His fiery and controversial character often antagonized allies and enemies alike, and he consistently disregarded long-term consequences to satisfy his immediate desires.

After obtaining his legal clemency, Sickles quickly enrolled in the Union Army in 1861, despite his lack of any military experience or training. He mobilized a local unit of troops,

⁷² For a further unpacking of this issue, see Hendrik Hartog, "Lawyering, Husbands' Rights, and the 'Unwritten Law' in Nineteenth-Century America", *The Journal of American History* 84 (1997), 67-96.

known as the Excelsior Brigade, and commanded them as a Colonel in the Eastern campaigns. Sickles quickly ingratiated himself with General Joseph Hooker, who shared Sickles' propensity for carousing. On General Hooker's recommendation, Abraham Lincoln, who had never met Sickles, recommended the Colonel for a position as a brigadier general. Once ratified, Sickles was given command of the Third Corps of the Eastern Army, the only commander without a West Point education to hold the post. At the battle of Gettysburg, Sickles defied General Meade's orders and marched his brigade into the now infamous Peach Orchard, getting most of his unit slaughtered. Sickles himself lost a leg to converging cannon fire.⁷³ Because he had been wounded, Sickles escaped a court-martial, again demonstrating a remarkable ability to evade prosecution.

For several years, Sickles served as a territorial commander in Reconstruction era South Carolina. In the summer of 1868, however, Sickles began to campaign furiously for his old commander Ulysses S. Grant and, upon Grant's ascension to the Presidency, wrote to Fish claiming a spoils position in the State Department.⁷⁴ In an incredible coincidence, Fish had long ago learned to distrust his fellow New York native. Sickles and Fish first met in 1840, when they were both young men serving in the government offices of New York. Sickles, for an unknown reason, owed Fish a sum of five dollars to settle a debt. As Fish recollects in his letters, Sickles repaid him with a check notarized by the Silver Lake Bank, which, as Fish later found out, did not exist.⁷⁵ Even before his career as an ambassador began, Sickles had already antagonized his superior.

⁷³ In a curious case, Sickles' leg remains on display at the National Museum of Health and Medicine as a textbook example of the damage caused by Civil War era cannons.

⁷⁴ Daniel Sickles to Hamilton Fish, December 8, 1868.

⁷⁵ Diary of Hamilton Fish, October 5, 1840. Hamilton Fish Papers, Library of Congress.

The newly elected Grant, however, wanted to reward Sickles' campaign contributions, so he suggested a post in Fish's State Department where Sickles could use his Spanish language skills. Fish offered Sickles the role of Minister to Mexico. Sickles quickly rebuffed the offer with the response that he would be "inclined to accept one of the major European legations more commensurate with his rank."⁷⁶ Fish had little say on the matter, as Grant forced an offer to Sickles of the Ministry to Spain. During his Senatorial ratification, Sickles' history as a Cuban annexationist in the 1850s came to light, further embittering Fish, who sought to maintain peaceful relations with Spain through his system of free trade diplomacy. On a political level as well, Fish believed that the appointment of Sickles, who continued to wear his uniform and demand the title of General despite the war ending four years earlier, would antagonize the Spanish as he appeared a militarized ambassador, ready to serve in case of war between Spain and America.⁷⁷

In many ways, that image was the one sought by Grant's Secretary of War John Rawlins, who wanted to expand into Cuba. Before his passing, Rawlins campaigned for Sickles' nomination as U.S. Minister to Spain, keen to place an annexationist in Madrid. Public sentiment was mixed following Sickles' appointment. Annexationists welcomed his posting, while followers of Fish's type of free trade foreign policy were aghast at the implications. The *New York World*, at this time run by the Democrats Manton Marble and William Henry Hurlbert, castigated Sickles' placement in Madrid as representative of the expansionist dogma of Republicans. The headline of one of their May 1869 papers criticized Sickles as "rowdy, mail-robber, spy, murderer, confidence-man, "general", satrap, politician, etc..."⁷⁸ As historian W.A.

⁷⁶ W. A. Swanberg, *Sickles the Incredible: A Biography of Daniel Edgar Sickles*, (New York: Scribner, 1991), 306.

⁷⁷ Diary of Hamilton Fish, December, 1868.

⁷⁸ *New York World*, May 18th 1869.

Swanberg notes, “The World sold out that day.”⁷⁹ In the end, however, Grant got his man, and Fish was left to communicate with Sickles throughout the increasingly hostile crises in both Spain and Cuba in the 1870s.

The official United States foreign policy campaign in Spain, sponsored by Fish, was based on two central aims: the elimination of slavery in Cuba, and the opening of Cuba to freer trade with other nations, namely the United States. In return, the United States did not recognize Cuban belligerency or give official aid to the revolutionaries led by Cespedes and Quesada. Sickles conveyed these messages during his tenure as ambassador, however he also began to demonstrate the type of proclivities that had gotten him into so much trouble before the Civil War. Sickles was frequently spotted at local restaurants and bull-fighting matches with both married and un-married women, to the extent that Fish was made aware of Sickles’ indiscretions through a letter signed “An American Citizen Just From Spain”, claiming that, “Sickles lived in open and notorious adultery with Madam Domeriquy, a Cuban conspirator, even at the U.S. Legation, to the shame of our countrymen abroad... His contact with lewd women of the town was and even is shocking.”⁸⁰ As indicated by the anonymous writer, Sickles was also heavily involved with Spanish politics, especially surrounding the Cuban question. While Sickles established himself in the social hierarchy of Spain, the sale of a de-commissioned Confederate blockade-runner across the ocean would soon derail the ease of Sickles’ ambassadorship.

While Sickles acquainted himself with the bordellos of Madrid, Manuel Quesada, the elected commander-in-chief of the Cuban revolutionaries, arrived in Washington in April 1870 to obtain aid to his soldiers by any means necessary. Under orders from Cespedes, Quesada contacted the “Central Republican Junta of Cuba and Puerto Rico” in New York, led by Jose

⁷⁹ Swanberg, *Sickles the Incredible*, 310.

⁸⁰ An American Citizen Just From Spain to Hamilton Fish, May 18th, 1873. Papers of Hamilton Fish, Library of Congress. Box 314, folder 5.

Morales Lemus and Francisco Adama. Supplied with money and American contacts by the Junta leaders, Quesada contracted James F. Patterson, an American with Cuban sympathies, to purchase the *Virgin* from the Washington Navy Yard for the sum of \$9,800.⁸¹ Signed and notarized documents, later found by the U.S. Solicitor General to discredit the *Virginus*' claims of American protection, falsely recorded that Patterson was the sole purchaser of the ship. Outfitting the ship with a crew of international sailors from New York, the newly renamed *Virginus* began one of many treks down to Cuba to outfit and supply Quesada's rebel troops. With the consequences of the construction of the *Alabama* fully resolved by 1872, and Fish's system of free trade foreign policy firmly in place, the conflict between two more British built ships would challenge the limits of Fish's free trade foreign policy principles in the following year.

⁸¹*FRUS, Spain, 1874*, 1002.

Chapter 3

“...Brutual, barborous, and an outrage upon the age” – The Affair of the *Virginius*

By 1873, when the *Tornado* was bearing down on the fleeing *Virginius* in the waters outside of Guantanamo, the *Virginius* had already acquired a treasonous reputation among Spanish naval commanders. Between 1870 and 1873, the *Virginius* made dozens of treks between Cuba, New York, and Mobile, Alabama. Supplied by locally hired vessels within American waters, the *Virginius* would serve as the final link in a military supply line leading back to the Cuban Junta leaders in New York. Two voyages in particular highlight the actions of the *Virginius* in the Caribbean, and the extent to which they exploited the regional free trade foreign policy championed by Fish in Washington.

First, in 1870, the initial trip of the *Virginius* from a New York harbor to Cuba established the standard means by which the Cuban revolutionaries were supplied. Shortly after purchasing the ship, Quesada launched his first munitions supply run to Cuba. Having hired an American sailor, Francis Shepperd, as the *Virginius*'s new captain, the ship left New York on October 4th, 1870. Quesada ordered the ship to the Caribbean, where it rendezvoused with a separately leased schooner, the *Billy Butts*. The *Billy Butts* had also left out of New York several weeks earlier, purchased through a different Junta contact, loaded with several hundred cases of ammunition, military issue carbines, and four 105mm howitzers. The sailors on the *Virginius* transferred the cargo from the *Billy Butts* on a secluded island somewhere in the Caribbean. They

also transferred an item even more foreboding for Spanish ships in the area: the Cuban flag of insurrection.⁸²

Brazenly flying both the American flag and the Cuban revolutionaries', the *Virginus* began the next stage of its supply run. In order to elude Spanish authorities, it took a circuitous route to get to Cuba. Rounding Cuba from the east, the *Virginus* sailed to Venezuela in order to pick up more troops sympathetic to the insurrectionists' cause. After rendezvousing with the *Billy Butts*, the *Virginus* steamed to La Guira, Venezuela, one of the country's major ports.⁸³ While Quesada went ashore in La Guira to drum up local support for his revolution, Shepperd, as was common, met with the American consul located in the city. Shepperd recalled that the consul, "in his official capacity, recognized the nationality of the vessel." However, "he clearly understood what the object of her being there was..."⁸⁴ Having made the intentions of the ship clear to the consul, Shepperd returned to the *Virginus* while Quesada came back with several dozen eager troops.

Next, the *Virginus* continued to Puerto Cabello, Venezuela, its next coaling port. While in Puerto Cabello, Shepperd met with the American Consul, Adolphe La Combe. La Combe was less eager to support the *Virginus*'s expedition than his colleague in La Guira. An ongoing war in Venezuela between militant insurrectionist forces and the Venezuelan government remained La Combe's main concern, as the fighting had reached only a few miles away from Puerto Cabello. La Combe questioned Shepperd's motives in Venezuela, particularly considering that the *Virginus* was loaded down with arms, ammunition, and young men. Shepperd assured La

⁸² *FRUS, Spain, 1874*, 1010.

⁸³ Located in the modern Venezuelan state of Vargas, La Guira was often referred to as Laguayra by the Americans at this time.

⁸⁴ *FRUS, Spain, 1874*, 1012.

Combe that his ship's cargo was solely intended for Cuban revolutionaries, not the Venezuelan militants several miles away. Quesada had other plans.

While Shepperd was meeting with La Combe, Quesada had ordered the *Virginus* six miles down the shore from Puerto Cabello where the Venezuelan revolutionaries, led by one Guzman Blanco, were camped. Calling on Blanco in a spirit of Latin American unity, Quesada negotiated an agreement with the militant leader: Quesada would bring his newly recruited troops to Blanco's next skirmish with Venezuelan forces if Blanco promised some of his own men to join the voyage to Cuba. Blanco agreed.

Enraged to find out he had lied to La Combe, Shepperd resigned his captaincy in Puerto Cabello.⁸⁵ While the *Virginus*, flying both Cuban and American flags, dueled with Venezuelan ships in the waters outside of Puerto Cabello, Quesada and his troops fought alongside Blanco's revolutionaries. Winning the conflict, Blanco stayed true to his word and supplied Quesada with additional troops to transport to Cuba. Without a captain, but in the final stages of its first journey, the *Virginus* steamed to Cuba, landing at Bocco de Cabello several weeks after its departure from New York. When it left the harbor in October, the ship had held several dozen sailors, a few Cuban revolutionaries, and a few trade items. By the time of its arrival at Bocco de Cabello, it was laden with dozens more troops, guns, cannons, and the flag of Cuban insurrection. The ship was greeted at the Cuban harbor with cheers, supplying Cespedes' rebels.

The *Virginus*'s first trip to Cuba set forth several precedents for Quesada's further voyages throughout the Caribbean. First, Quesada relied upon other militant revolutionary groups in Latin America to strengthen the forces of Cuban revolution. The circuitous supply route, while slower, allowed the *Virginus* to avoid Spanish war ships which patrolled the area,

⁸⁵ *FRUS, Spain, 1874*, 1013. Earlier in his career, Shepperd was employed as a professor of ethics at the Naval academy of Annapolis before joining the Union fleet in 1861. It is likely that his familiarity with the ethics of naval warfare prompted his outrage.

and offered new opportunities for Quesada to rally new allies to his cause. Most importantly, the *Virginus* relied upon the tacit support and prestige of the United States to safely reach its destination. The consul at La Guira was one of many who acknowledged the *Virginus*'s actions in Cuba, indeed many supported the insurrection wholeheartedly.⁸⁶ In Washington, Fish was quickly made aware of the *Virginus*'s actions.

The first to alert Fish of the ship's illicit activities was William Pile, the U.S. minister to Venezuela. Pile, no doubt hearing from one of the several consuls visited by Shepperd in that initial trip, wrote Fish in November, 1870 with information on the *Virginus*. Pile claimed that the ship was properly registered to an American, most likely referencing James Patterson, and its mission to supply the Cuban rebels seemed noble. He concluded by stating he would treat the *Virginus*, "as any other American vessel."⁸⁷ Fish concurred with Pile's assessment. Although Fish was not an annexationist, any successes on the part of Cespedes' revolutionaries would strengthen his negotiating position with Spain regarding the tariff. As the years went by, Fish's desk became littered with communiqués and dispatches from consuls and ministers throughout the Caribbean with information on the *Virginus*, however no official action was ever taken by the State department against the ship.⁸⁸ Fish's inaction, again, reflects his free trade foreign policy. Although the State Department had ample evidence of the *Virginus*'s extralegal shipping, the maintenance of free private trade was central to a free trade Caribbean.

For three years, between 1870 and 1873, Quesada continued to sail the *Virginus* around the Caribbean drafting soldiers, picking up supplies, and fleeing from Spanish ships that

⁸⁶ See *FRUS, Spain, 1874, 1010* for information on another U.S. Consul in Coracoa who supported the ideology of the revolution.

⁸⁷ William Pile to Hamilton Fish, November 12th, 1870. National Archives at Waltham, Consular Dispatches from Venezuela. Box 1, roll 1.

⁸⁸ Fish's papers contain several notes from his ministers, for examples of these notes see, Hamilton Fish Papers, box 311, folders 2-4.

patrolled the waters around Cuba. During this time, the ship acquired a criminal reputation among Spanish policymakers and the commander of the *Voluntarios* in Cuba.⁸⁹ Whenever the *Virginus* sailed in the Caribbean, however, it flew the American flag, a potent protection against Spanish naval commanders wary of starting a war with the United States. Entreaties by the Spanish government for the United States to disavow the *Virginus* fell on deaf ears in the State Department. Spain also made several pleas to the national governments of Colombia and Venezuela, where the *Virginus* often made port, to detain the vessel. International legal precedent was ambiguous. In a time of war, any ship carrying war materiel could be captured as contraband. As Venezuela and Colombia had both recognized Cuban belligerency, the voyages of the *Virginus* would seem to be wartime supplying missions. The American ministers in Venezuela and Colombia, most notably William Pile, defended against these claims by arguing that the *Virginus* was an American ship, and all such ships had a right to ply their wares anywhere within the Caribbean.⁹⁰ This repeated insistence upon the rights of American merchant vessels was a critical part of Fish's foreign policy initiatives.

This type of protection was not typical among other national authorities operating in the Caribbean. In 1872, during one of the *Virginus*'s trips to Cuba, Quesada attempted to change the purported allegiance of his vessel. In a curious move, Quesada consented to sell the *Virginus* to a British co-conspirator in Puerto Cabello, giving over the rights to the ship to the Briton. It is unclear why Quesada made this move. Perhaps he thought the authority of the British Navy was more respected in the Caribbean. As with Patterson, though, the ship was understood to be under the control of the Cubans, and Quesada specifically. The sale was completed, but the British consul in Caracas accosted Quesada and Charles Smith, the *Virginus*'s new captain, before they

⁸⁹ Daniel Sickles to Hamilton Fish, November 5th, 1873.

⁹⁰ *FRUS, Spain, 1872*, 140, 156-158.

left the port. Smith recalled that the British consul declared the *Virginus* could not raise the British flag as a means of protection, as it had been doing with the Stars and Stripes. “I have a telegram,” the consul claimed, “from the English minister at Caracas to seize her for a pirate if she hoists the English flag.”⁹¹ The British government would not grant the *Virginus* the same level of protection it had received from the United States. Quesada immediately revoked the sale and proceeded to hoist the American flag, under no protestation from the American consul in Puerto Cabello.

This episode highlights the atypical ideology espoused by the United States during this era, especially by Fish and the State Department. Even though Britain, who widely held to free trade economic principles within their empire, refused to grant legitimacy to the extralegal actions of a supposedly private ship like the *Virginus*, the United States offered the safety of its flag. As evidenced by the consular memos, Fish was aware of the *Virginus*'s proclivities, but he never authorized a consul or minister to challenge the ship's right to hoist the flag.

In June 1873, five months before the *Virginus*'s capture by the *Tornado*, this condoning of the *Virginus*'s actions even extended to physical protection. Over a decade old by 1873, the *Virginus* frequently suffered leaks and boiler malfunctions throughout its voyages.⁹² In June of 1873, the ship sprung a leak in its hull, forcing drydock repairs in Aspinwall, Colombia (present day Colon, Panama). Aspinwall was not a regular stop on the *Virginus*'s tours, and Spanish war ships periodically visited the port, as the newly appointed Captain Smith would soon find out.

Seeking its own repairs, the Spanish gunboat *Bazan*, commanded by Lieutenant Jose Autran, landed at Aspinwall on June, 1873. Notorious for its illicit actions, the *Virginus* immediately caught Autran's attention. Autran, as well as every other Spanish naval commander

⁹¹ *FRUS, Spain, 1874*, 1022.

⁹² *FRUS, Spain, 1874*, 1010.

in the Caribbean, had strict orders from Madrid to capture the *Virginus* on sight. Achieving this goal, however, was stymied by the presence of two American warships also docked at Aspinwall, the *Canandaigua* and the *Kansas*. Wary of causing an international incident, Autran contacted the commanders of the two American ships inquiring as to the legitimacy of the *Virginus* as an American merchant vessel. Commander Reed of the *Kansas* responded with the claim that the *Virginus* was an American vessel, and any attempt to capture it would be considered an act of war against the United States.⁹³ The two commanders, Reed and Autran, met in Aspinwall to negotiate on the future of the *Virginus* while the ship itself waited anchored in the port, its leaky hull unrepaired. Autran claimed that the *Virginus* was a pirate ship illegally masquerading under the flag of the United States. The American consul at Aspinwall joined Reed in his defense of the *Virginus*. Unable to convince the local authorities to detain the ship, Autran returned to the *Bazan*. The port at Aspinwall remained at the edge of conflict as neither the American ships or the Spanish *Bazan* moved out of the harbor. Several hours into the tense affair, Reed moved the *Kansas* between the *Virginus* and the *Bazan*. Unwilling to fire upon the American warship, Autran could only watch helplessly as the *Kansas* escorted Quesada's ship onto the open seas.

This episode, only a few months before the *Virginus*'s ultimate capture, demonstrates the lengths to which Fish's free trade foreign policy initiatives had taken hold among the naval commanders and consuls in the Caribbean. Reed was undoubtedly familiar with the checkered past of the *Virginus*, but the protection of any ship carrying the American flag was the highest priority for the commander of the *Kansas*. The actions of the consul, as well, embody the unique American approach to dealing with international conflicts of interest. Protecting the core of American trade, the consul was quick to secure safe passage for the purported trading vessel. As

⁹³ *FRUS, Spain, 1874*, 1018.

Fish had made clear throughout the *Alabama* claims, the U.S. State Department would not allow international incidents that affected the scope of American international trade go unpunished.⁹⁴

The *Virginus*'s near capture in Aspinwall would prove to be its penultimate adventure. Fleeing from the *Bazan*, the *Virginus* was released from the *Kansas*'s protection several miles out from shore, and proceeded to steam towards Kingston, Jamaica. Docking in early July, the ship stayed at the port for repairs until mid-October. By the time it was fully repaired, another Junta supported ship, the *Atlas*, had also docked in Kingston carrying more munitions and prospective soldiers to be shipped to Cuba.

While the military cargo of the *Atlas* was unremarkable, its passengers destined for Cuba were a curious collection of soldiers. Led by Cuban General Bernabe Varona, nicknamed Bembetta, the soldiers were mostly Cuban expatriates who had joined in the expedition out of loyalty to their revolutionary comrades. Among the Cubans, however, was a lanky white man who styled himself as General William Ryan, a Canadian filibusterer. Ryan was actually Lieutenant George Washington Ryan, an Irish immigrant to Canada who fought in the Civil War with a New York infantry regiment. Ryan had joined the expedition in New York, dreaming of the potential economic gains made possible by Cuban independence. Another passenger on the *Atlas* was Joseph Fry, another veteran of the Civil War. Fry, however, had sailed blockade-runners for the Confederacy. Charles Smith, who had captained the *Virginus* throughout the episode at Aspinwall, feared another incident after Aspinwall and quickly resigned. The New York Junta had hired Fry, who had military experience with ships like the *Virginus*, as Smith's replacement. Outfitted with new repairs, soldiers, and an experienced captain, the *Virginus* began its final trek towards Cuba where it would be finally captured by the *Tornado*.

⁹⁴ One of the biggest complaints of the Americans during the negotiation of the Treaty of Washington was that the *Alabama* had disrupted American trade during the Civil War.

On the morning of October 30th, the *Virginus* departed from the harbor at Kingston and steamed towards Cuba carrying its new complement of men and munitions. While Ryan, who had self-breveted himself a General in the Cuban army, trained some of the soldiers on the deck, the newly appointed Captain Fry sought to keep the leaking ship in one piece until they could reach the relative safety of Bocco de Cabello and effect repairs. Six miles from the Cuban coast, within sight of Guantanamo, the leaking steamboat was sighted by the patrolling *Tornado*.

Captained by Dionisio Costilla, the *Tornado* was under express order to patrol for blockade-runners in the area, and the *Virginus* was one of the most notorious. The details of the ship had been relayed to Costilla when he first took his post, and his watchmen spotted the ship off the coast, identifying its twin masts and matching twin steamers.⁹⁵ As soon as Costilla was informed of the *Virginus*'s presence, he gave chase. The *Virginus*, battered and overused, had only one realistic option: flee. For several miles, the *Virginus* crept away from the shoreline, trying to lose the onrushing *Tornado* in the open sea. Once within range, the *Tornado* fired four cannon shots across the *Virginus* scoring two hits on the cable lines holding up the ship's sails. With the ship's boilers stoked to near bursting, and the sails losing slack, Captain Fry recognized the impossible circumstances they were put in. He ordered the ship's engines turned off. Because the ship had departed from Kingston, controlled by the unsympathetic British, the flag of Cuban insurrection was not raised on the *Virginus*. Instead, Ryan, Bembetta, Quesada, and Fry gathered the men under the only realistic protection they had left, the safety offered by the American flag which still flew over the topsail.

Eager to capture the ship, Costilla ordered a boarding party to take the *Virginus*. As Spanish troops swarmed aboard the *Virginus*, Bembetta ordered his troops to stand aside. The crew and passengers were searched, stripped, and tied down on the deck while several more

⁹⁵ *FRUS, Spain, 1874*, 1018.

enthusiastic Spanish soldiers climbed the mast and tore down the American flag which had protected the *Virginus* from capture for years. Raising the Spanish colors on the ship, the boarders stomped on the flag, tearing it, and spitting on the image that had protected those who armed their enemies in Cuba. Seeing this, Ryan was heard to remark to the remaining Cubans, “That means war, boys, if we ever get out of this.”⁹⁶

On the surface, Ryan was undoubtedly right. In this period, the desecration of another nation’s flag was considered an act of war. While the Spanish could argue, and indeed would, that the *Virginus* had no right to carry the American flag, Ryan was aware of the unusual liberty granted to American trading vessels by the U.S. state department. Even a ship like the *Virginus*, which was more or less recognized by American ministers for what it was, was granted protection. And, as the British knew quite well, the United States would eagerly prosecute any attempts to curtail the international trading efforts of American private vessels.

After the *Virginus*’s capture, events moved quickly in the Caribbean. News filtered periodically to the United States but, by and large, the most scandalous consequences of the *Virginus* Affair had occurred by the time that Fish first heard of any possible insults to American prestige.

The following day, November 1st, the *Tornado* towed the *Virginus* into the harbor of Santiago, Cuba where, twenty-five years later, the Spanish fleet would surrender to the victorious Americans ending the War of 1898. All of the crew and passengers aboard the *Virginus*, except Ryan, Bembetta, and Quesada, were marched into the city and placed under guard in prison. Bembetta and Quesada were well known to the Voluntarios, they had led Cuban forces for years against Spain. Ryan, however, was a curious case. He titled himself a general, however he had yet to see combat in Cuba. The leader of the Voluntarios, one General Burriel, decided that Ryan

⁹⁶ *FRUS, Spain, 1874*, 1077.

would suffer the same punishment as Quesada and Bembetta. The only possible American protection for the captured men came in the form of Emil G. Schmitt, the U.S. vice-consul in Santiago. Schmitt's superior, consul Arthur Young, was vacationing back in the United States, and the young vice-consul had only been working in Cuba for a little over a year.⁹⁷ Once he heard of the *Virginus's* capture, he attempted to meet with the prisoners and devise some strategy to free them. The Voluntarios who guarded the prisoners rebuffed his attempts. For two days, Schmitt tried unsuccessfully to contact the prisoners, and he desperately wired Washington for aid or advice. By the time his first wires got through to Fish, November 3rd, Bembetta, Quesada, and Ryan had all been tried in a hasty military tribunal as traitors and pirates.⁹⁸

Early on November 4th, the three men were led out into the streets of Santiago and executed by firing squad. Unsurprisingly, the execution of Ryan, a naturalized citizen of Canada one of the few white men aboard the *Virginus*, enraged Schmitt and brought new allies in the form of the British consul in Santiago as well as several private British citizens who resided in the city. One of these citizens, a man named Theodore Brooks, was the first to receive guidance from his own nearby national authority, the colonial governor in Jamaica. Brooks was ordered to stop any more murders at once, and was given the authority of the British crown in any requests made to Burriel.⁹⁹ The commander, however, refused any entreaties from Britain or America, denying Schmitt and Brooks access to the remaining prisoners.

Only a few days later, the remaining prisoners, still languishing in prison, were informed that every potential soldier who had arrived with the *Virginus*, as well as Captain Fry, would be tried in a court martial to convene the very same day. Three dozen men were brought to the naval barracks and tried before a court of Spanish commanders. Interestingly, the court prosecutor was

⁹⁷ *FRUS, Spain, 1874*, 1082.

⁹⁸ J.C.B. Davis to Hamilton Fish, November 3, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

⁹⁹ Consul general in Havana to Hamilton fish, November 8th, 1873.

none other than Lieutenant Jose Autran, who had narrowly missed capturing the *Virginus* in Aspinwall several months earlier. Little evidence remains as to the events at the court, but every man was sentenced to death for their crimes against Spain. Autran cited a military code passed at the beginning of Cuba's revolution that stated that, "all vessels captured on the high seas near Cuba with men and munitions should be treated as pirates and their crews immediately executed."¹⁰⁰ Not allowed any legal defense, Fry and the would-be soldiers were sentenced to death by firing squad.

Early the next morning, on November 8th, Fry and the Cubans were marched to the same wall where Bembetta, Quesada, and Ryan had met their ends. Under Burriel's orders, they suffered the same fate. Increasingly frantic, vice-consul Schmitt contacted other national consuls in the city, local activists, and waited for any definitive response from Washington.¹⁰¹ Before he could force his way into Burriel's office, the Voluntarios had sentenced an additional twelve men to death; they were executed on November 10th. Finally, as a British cruiser alerted by Theodore Brooks pulled into the harbor, Burriel guaranteed Brooks and Schmitt that no more prisoners would be shot. The damage, however, had been done and the events of the affair played out. In less than two weeks, Burriel had ordered the execution of roughly fifty men, some of them American and British citizens. The ramifications of Burriel's actions would reverberate throughout the globe.

Although the advent of telegraph lines laid throughout the Caribbean and across the Atlantic sped the process of communication, information still took days to travel from Santiago to the United States. The first word on the *Virginus* arrived in Washington on November 5th: a frantic message from Brooks detailing the capture of the *Virginus*. Fish, who was aware of the

¹⁰⁰ Consul general in Havana to Hamilton fish, November 13th 1873.

¹⁰¹ Vice-Consul in Santiago to Fish, November 11th, 1873.

ship's illicit activities, thought little of its capture, assured in the protection offered to the crew by the American flag they flew.¹⁰² On November 7th, the day Fry and the soldiers were sentenced to death, the first news of executions trickled into Washington. Fish was handed a communiqué while at a cabinet meeting. He immediately informed the President and the cabinet of the executions of Ryan, Bembetta, and Quesada. The reaction was mixed. President Grant commented that, perhaps, the executions were hastily inflicted, but the status of the three men as revolutionary leaders entitled Burriel to rights of execution. It seems that many of the secretaries understood this as well, for the discussion quickly turned to domestic policy.¹⁰³

Fish continued his regular schedule for the week, meeting with the Spanish minister to the United States and aristocratic Spanish veteran named Don Jose Polo de Barnabe, known as Polo. Fish and Polo discussed the *Virginus*, but both agreed that the three executions did not represent a break with international law. A similar meeting between Fish and Edward Thornton, the British minister to the U.S., came to the same conclusion.¹⁰⁴ Thornton condemned the actions of Burriel, but thought that the incident could be overlooked.

On November 11th, the day following the final executions in Cuba, Fish met again with the President and the cabinet. No news had filtered in concerning the *Virginus*, and Fish led the discussion arguing that the incident would not affect American interests. Following a lengthy debate over the possible response to the capturing of American property – the *Virginus* – Fish won out. Without the ardent annexationist Rawlins around, Fish had consolidated ideological control over the cabinet and the President in shaping American foreign policy. Indicative of this was Fish's proposed countermeasure should Spain fail to return the *Virginus* and her crew

¹⁰² Edward Pierrepont to Hamilton Fish, November 7, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

¹⁰³ Diary of Hamilton Fish, November 7, 1873.

¹⁰⁴ Ibid, November 9, 1873.

promptly: an embargo on Spanish goods. Fish conceived of international relations in such a mercantile way, eager to maintain free trade on the seas and punish those who would hurt American trading interests.¹⁰⁵

Although he remained committed to this philosophy at the meeting, it seems that Fish might have been concerned that cooler heads would not prevail in Spain. He visited George Robeson, the Secretary of the Navy, the next day privately and inquired as to the state of the American navy. He was reassured that the U.S. could send several ironclads to Cuba immediately, however Robeson expressed doubts as to the strength of the United States against the Spanish navy.¹⁰⁶ Despite this, Fish ordered a Monitor class ironclad to depart for Havana immediately. In addition, he ordered the Navy to be put on a war footing, preparing for any eventuality. As soon as Robeson left the office to carry out Fish's commands, the news of the additional thirty-six executions reached Washington.

Fish perhaps, could justify the deaths of Ryan, Bembetta, and Quesada, but the wanton execution of thirty-six more men, deemed innocent by the Secretary of State, seemed unconscionable. Fish quickly cabled Sickles in Madrid, ordering him to, "protest in the name of the government and of civilization and humanity, against the act as brutal, barbarous, and an outrage upon the age, and declare that this government will demand the most ample reparation of any wrong which may have been committed upon any of its citizens, or upon its flag." Fish also included a coded postscript. Decoded by Sickles, the script read, "You are confidentially informed that grave suspicions exist as to the right of the *Virginius* to carry the American flag, as also with regard to her right to the American papers which she is said to have carried."

¹⁰⁵ Ibid, November 11, 1873.

¹⁰⁶ George Robeson to Hamilton Fish, November 12, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 8., November 12th.

Considering this, Fish urged Sickles to act in a manner that avoided “all appearance of menace.”¹⁰⁷

The next day, Fish met with Polo again. Although the meeting remained unrecorded, Fish recalled in his diary that he confronted Polo about every possible action that led to the executions. Burriel’s refusal to allow legal aid to the prisoners, the inactivity of the Spanish colonial government in Havana, and the hasty military tribunals were all castigated by the Secretary of State. Fish suggested that the errors in Cuba were largely due to the distant imperial rule held by Spain and, perhaps, to ensure the safety of foreigners in Cuba, other nations should be allowed more control within the island.¹⁰⁸ While the consuls from France and England were involved in the process of the *Virginus* Affair, Fish’s suggestion clearly was meant to promote more American political and economic involvement on the island. To relieve Spain of the Cuban anti-colonial tensions, Fish sought unfettered access to Santiago in order to effect reprisals. Polo responded noncommittally, saying he would take Fish’s suggestions to President Castelar in Madrid.

On November 14th, Fish met again with the cabinet and Grant. The *Virginus* was the first topic addressed. Again, Fish urged caution, claiming that General Sickles in Madrid and General Consul Hall in Cuba would need to relay more information before any definitive action could be taken by the U.S. While giving his arguments, Fish received another communiqué from the island from a member of the American Press Association. The news of the final executions finally came four days later to Washington. The reporter, however, claimed that Burriel executed one hundred and eleven of the crew, rather than only ten.¹⁰⁹ Similar news came from other

¹⁰⁷ Hamilton Fish to Daniel Sickles, November 12th, 1873.

¹⁰⁸ Diary of Hamilton Fish, November 13, 1873.

¹⁰⁹ *Ibid*, November 14, 1873.

periodicals and newspapers throughout the nation.¹¹⁰ This update prompted immediate action from the cabinet. Before the meeting, Fish had drafted a cable to Sickles ordering the general to leave his ministry if Spain had not provided ample explanation or reparations for the *Virginius* Affair.¹¹¹ He had left the ultimatum on his desk, however the false announcement of over one hundred deaths provoked furious reactions from the secretaries. Initially, Fish called for Sickles to petition the Spanish government for an explanation of the affairs in Cuba; he assumed that the *Voluntarios* illegally executed the sailors under no orders from Madrid. The cabinet, however, urged Fish to castigate Castelar and his ministry for the incident. They agreed upon a twelve day limit before Sickles should protest the Spanish government's actions and return to the United States and, most likely, to war.¹¹²

In Madrid, Sickles responded to Fish's orders with gusto. Even before news had come in concerning the majority of the executions, Sickles approached the Spanish Minister of State in Madrid, Jose de Carvajal, and urged him to distance Spain from Burriel's actions, or face military recrimination by the United States. Ignoring Fish's early attempts to maintain positive relations, Sickles named Carvajal and President Castelar the unwitting architects of "butchery and murder."¹¹³ Enraged, Carvajal ordered Sickles to return to the American legation where an angry crowd of Spanish newspaper reporters greeted the minister. Ensnared in the legation, Sickles soon received Fish's orders to begin preparations in twelve days to return to the United States. Reading the exaggerated reports of executions in American newspapers, Sickles thought that such a move was long overdue. Indeed, Sickles cabled back to Fish, writing, "I propose,

¹¹⁰ See "The Capture of the *Virginius*", *New York Evangelist*, November 20, 1873; "The *Virginius* Affair", *New York Times*, November 17, 1873.

¹¹¹ Draft of a cable from Hamilton Fish to Daniel Sickles, November 14, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 9.

¹¹² Hamilton Fish to Daniel Sickles, November 14, 1873.

¹¹³ Swanberg, *Sickles the Incredible*, 346.

unless otherwise ordered, to close this legation forthwith, and leave Madrid. Popular feeling runs high here against the United States and this legation.”¹¹⁴ Fish refused Sickles’ proposal to accelerate the closing of the legation.

Months later, when Fish forced Sickles to resign, Fish amusingly recalled Sickles’ actions in a letter. Speaking of Sickles, Fish wrote, “it really appeared as though he took the violence of the Herald, the Sun, and other kindred sheets as evidence of the popular sentiment, and that the country was to rush to arms, and that he was preparing his sword and epaulettes to be at the head of the movement.”¹¹⁵ While Fish’s recollections were undoubtedly colored by his negative opinion of the annexationist, Sickles’ actions in Madrid were certainly above and beyond his orders from Washington.

The incident of the *Virginius* Affair itself took less than two weeks to play out in Santiago. News filtered sporadically to the United States and Madrid over the following days, and numerous false reports colored the actions of both the U.S. government and private citizens. News, both false and true, of the incident would sweep across the United States and Spain, igniting fierce controversy over the role that the United States should play in world affairs. The scope of the public’s reaction would challenge Fish’s long espoused free trade foreign policy.

Due to the numerous dispatches, letters, and cables streaming across the Atlantic and Caribbean, it is understandable that some messages remained unfound or unanswered throughout the weeks of the *Virginius* Affair. One letter in particular from Sickles to Fish, however, most clearly expresses the goals of Fish’s foreign policy. Sent by Sickles on October 30th, the day of the *Virginius*’s capture outside of Guantanamo, the letter was not received in Washington until November 18th, after the last executions had halted. During the letter’s transatlantic travel, the

¹¹⁴ *FRUS, Spain, 1874*, 951.

¹¹⁵ Hamilton Fish to Elihu Washburne, March 8, 1874. Hamilton Fish Papers, Library of Congress. Box 314, folder 7.

status of U.S.-Spanish relations had completely altered, and its arrival in Washington neatly brackets the enforcement of Fish's free trade foreign policy with the dire challenge of the *Virginius* Affair.

Sickles explained in the letter that he had called upon Minister of State Carvajal a few days earlier, on October 28th. Sickles related the contents of their discussion:

After some conversation on the results of emancipation in the United States and the importance of providing means for the education of the freed people in Cuba, I alluded to the financial crisis in the island and the means of improving its revenues by a more liberal commercial policy.

Sickles neatly sums up the two central aspects of Fish's foreign policy strategy in Spain: the elimination of Spanish slavery in the colonies, and the reduction of tariffs and duties on American goods in Cuba. Sickles continued, "I pointed out that the large exports of flour, grain, and meat, from the peninsula to European markets proved that Spain was able to compete with the United States and Russia in agricultural production." In a spirit of international free trade, he concluded, it could only benefit the consumers in both Spain and Cuba to relax trade restrictions in the colony. Indeed, "if the discriminating duties were removed or reduced, American flour entering Cuban ports would yield a large sum annually to the treasury..." Sickles continued for some time, explaining to Carvajal the benefits of free trade economics while, concurrently, the U.S. Congress retained a protectionist tariff. He concluded the letter to Fish with the statement that, "I will not trouble you with a recital of other illustrations and arguments I advanced, as the topic is, of course, a familiar one to the department."¹¹⁶

In this way, Sickles was merely reinforcing the ideology of free trade foreign policy advanced by Fish in the United States. Unaware that, hundreds of miles away, the *Virginius* was being hunted down by the Spanish *Tornado*, Sickles' letter reflects the long term goals of the

¹¹⁶ The entirety of this letter can be found in *FRUS, Spain 1874*, 846-848.

United States in Cuba, or at least those espoused by Fish. After his letter's arrival in Washington, on November 18th, U.S.-Spanish relations had irrevocably changed. While the deaths of the *Virginius*'s crew and leaders would bring a measured political response from the U.S. government, Fish's main obstacle in pursuing peace was the widespread belligerent reaction of the public.

Chapter 4 Mediating an Outraged Public

Languishing in what would later be known as the Panic of 1873, the American public was roused to anger by the news that filtered in from the Caribbean. Protests against governmental inaction and rallies for Cuban independence swept across the nation and war seemed increasingly likely. This reaction was guided by the sensationalism of American newspapers. Although the era of big newspaper yellow journalism, spearheaded by men like William Randolph Hearst and Joseph Pulitzer, was several years away, the American press ran wild with the story of the *Virginius*, sensationalizing the affair, distorting facts, and calling for war with Spain and the annexation of Cuba.

The worst offenders by far were James Gordon's *New York Herald* and Charles Dana's *New York Sun*. When the first news of the *Virginius*'s capture came to the mainland in early November, the *Herald* called for brazen action by Secretary Fish, whose foreign policy the newspaper had long opposed. The paper claimed "it is a duty incumbent upon our government at once to recognize the belligerent rights of Cubans..."¹¹⁷ If Fish would not do so, they continued, Grant should remove him from office. By recognizing the belligerency of the Cuban rebels, the *Herald* concluded, American private interests could be granted unfettered access to the island.

The *Sun* took a different position. Instead of recognizing the Cuban revolutionaries as an independent government in Cuba, the paper argued that the United States should simply be more hands on in securing international trade zones in the Caribbean. The *Sun* argued that the U.S. government, "seems to be more earnest than heretofore in protecting the waters between the

¹¹⁷ *New York Herald*, November 10, 1873.

United States and Cuba, the great highway of all nations, from Spanish molestation... and the United States will be compelled to assert its power in all cases where the interests of the citizens of this country and its own honor require decisive action.”¹¹⁸ Although neither the *Sun* nor the *Herald* advocated complete annexation, their response to the *Virginius* Affair widely echoed throughout the industrializing North. In the streets of Baltimore, Americans paraded through the city carrying the flag of Cuban insurrection, the very same colors that the *Virginius* flew when in international waters. The activists demanded the granting of belligerency to the revolutionaries. In New York, thousands of Cuban immigrants rallied throughout Brooklyn and Manhattan, calling for war with Spain and the liberation of Cuba. Four thousand German immigrants met at Germania Hall to advocate a similar policy. The governors of New Jersey and Connecticut both made public statements favoring annexation.¹¹⁹ Throughout the north, the public sentiment echoed the thundering rhetoric of the *Sun* and the *Herald*, at least for a few weeks.

Although the Cuban question had often served as a dividing line between the mercantile northeast and the annexationist southern states, the *Virginius* Affair, it appears, was a uniting presence throughout the nation. The *New Orleans Daily Picayune* front page was almost exclusively devoted to the tale of the *Virginius* for over a week after news began rolling in from Santiago.¹²⁰ In the streets of New Orleans, former Confederate General James Longstreet made a public call to President Grant, vowing his re-enlistment in the American army if war was to be declared.¹²¹ An editorial in the *Picayune* stated that “on no occasion for a quarter of a century have the people of all sections of the Union been so united upon a question as upon this...”¹²² If

¹¹⁸ *New York Sun*, November 12, 1873.

¹¹⁹ *Ibid*, November 14. Also see Bradford, *The Virginius Affair*, 66-68 for a full account of these reactions.

¹²⁰ *New Orleans Daily Picayune*, November 11-18.

¹²¹ *Ibid*, November 12.

¹²² *Ibid*, November 14.

the annexation of Cuba had fractured American sympathies in the 1850s, the 1873 act of butchery reunited the two sides of the union.

Not everyone agreed with this sentiment, however. In a letter to the Secretary of State, one J.N. Forbes declared that the reaction to the *Virginius* Affair was not a union of interests, but a newfound domination of public sentiment by the South. He wrote, “Nothing is more absurd than the talk of [the *Virginius* Affair] bringing the South into harmony with the North.” This co-opting of the public sentiment, in his mind, was largely orchestrated by the “uneasy, idle, young men of the South who would, of course, like an outlet in Cuba for their filibustering spirit. The sympathy of the Southern press with the present war cry simply means that Captain Fry and some others of the *Virginius* expedition were good Secesh rebels!”¹²³ While Forbes’s argument is undoubtedly exaggerated, the annexationist spirit that suffused the press did often reflect an antebellum push towards Caribbean occupation widely espoused in the South.

To support such polemical claims, newspapers from around the nation employed distorted figures of executions, claimed that the U.S. had already declared war against Spain, and often exaggerated quotes from leading public figures. Fish refused to respond publically to any of these falsified claims. He saw the denunciations of the press as partisan, attempting to drive a wedge between Fish and Grant, as Fish was widely recognized as the most important member of the cabinet. In a letter, Fish opined that the both the sensational journals, on purpose, and the more reputable papers, by accident, “have attributed to me expressions and opinions which were never uttered or entertained by me. “Interviews” (the pest and the disgrace of modern journalism) have been distorted and most grossly and falsely represented, and in several instances have been reported and published without the slightest of foundations...” The goals of

¹²³ J.N. Forbes to Hamilton Fish, November 14, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

the sensationalized papers like the *Sun* and *Herald* were clear to Fish. “One object of such publications has doubtless been to weaken the Administration... Another motive undoubtedly was in the desire of certain parties to obtain a vacancy in the Cabinet... A third, and perhaps the most active motive, has been in the fact that the sensational statements and personal abuse make a more ready sale for a certain class of public journals.”¹²⁴ Hearst and Pulitzer would have been proud.

Despite the torrent of rhetoric, the press was curiously vague as to the culprits of the *Virginius* Affair. Many of the newspapers recognized that, logistically, the Spanish government could have had little control over the day-to-day affairs in Cuba. Indeed, no cable from Spain reached Santiago before the last of the executions had been carried out. However, the most sensationalist papers still clamored for action against Spain in some way. Disregarding the inordinate control exerted by the Voluntarios in Cuba, the editors of the *Sun* and the *Herald* called for measures which would surely bring war with Spain: the recognition of Cuban belligerency and the deployment of American ships in Cuba to maintain order. While Spain might not have been the focus of such efforts, there was still a recognition that the imperial Spanish authorities were, somehow, still to blame. Although never clearly stated, this assumption permeated the public response to the affair.

In Washington, Fish espoused another viewpoint. Initially, he considered the capture of the *Virginius* to be the latest in a line of actions by the Voluntarios in Santiago insubordinate to their Spanish commanders, something that would be swiftly dealt with by the Captain-General in Havana. However, as news of the executions rolled in, he saw the entire imperial hierarchy in Cuba as culpable. Spain was desperate to effect change in Cuba, but the military governorship in

¹²⁴ William Cullen Bryant to Hamilton Fish, November 17, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

Havana was completely out of control. Contrary to popular sentiment, Fish did not blame the Spanish for the Virginius Affair, following the final news of executions, but the Cuban colonial government. “The present government in Madrid,” Fish wrote in a private letter, “wishes to do what it promises, and it in good faith when it makes promises, but it is not strong in Spain and when we get to Cuba its power of performance is infinitesimally small.”¹²⁵

The Cuban insurrectionists, in Fish’s view, had no right to claim belligerency and attempt to wrest control of the island from Spain. Indeed, Fish concluded, the colonial government led by the Voluntarios had already done that. In a long letter to the retired editor William Cullen Bryant, Fish laid out his entire view on the matter, as well as the outpouring of interventionist sentiment among the press. Fish wrote that, “it is evident that Spain cannot govern [Cuba], in fact, that Spain has not for some time been able to control it. Should not then the nominal supremacy of Spain over the Colony be denounced by other Powers? Even if not renounced by her?” It is interesting to note here that Fish was not advocating a policy of annexation; such a strategy violated his free trade foreign policy. Instead, he proposed the recognition of the current state of affairs in Cuba, one where the government in Madrid was left powerless to the Voluntarios.

He continued, “notwithstanding all the abuse and the denunciation heaped upon me individually by a part of the public press (the ultra-sensational, and that subsidized by money) I have long been of the opinion that Spain must soon admit the fact that the Island has passed from her control. It had not been the Insurgents of Yara who have wrested the Island from the Mother Country, but the Casino Espanyol and the Volunteers who have usurped the Government of the Island...” The goal of the United States in the Caribbean then, in this conception, would be to promote the policy that would ensure safe trade routes. If the Voluntarios resorted to executions

¹²⁵ Silas Stillwell to Hamilton Fish, November 7, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4. Underline is included in the original text.

and the capturing of American ships, then Fish concluded that the United States should support efforts by Spain to retain control of the island. Of course, Fish required the reduction or elimination of trade barriers throughout Spain's colonies in return for such assistance.

Fish felt singularly persecuted for taking such a stance. He writes, "the Cuban Junta in N.Y. and the Cuban sympathizers have persistently and illogically insisted upon a recognition of belligerency, and upon fitting out military expeditions from this country, and because it fell to my lot in my official position to deny that the condition existed... I have been singled out for especial abuse..." In addition to the partisan attacks orchestrated by the press, as Fish conceived of it, private interests were especially singling him out solely because he had a realistic view of global affairs. The recognition of Cuban belligerency and an American military expedition to Cuba would certainly help achieve American annexationist goals. Fish, however, was not an annexationist. Indeed, he only called to end Spain's control in Cuba because, effectively, this was already the case. The colonial government in Havana could not protect American trade interests, so something had to be done. Fish consistently challenged the imperial model of global economics throughout his tenure, especially in relation to Spain. Political control of Cuba by Spain did not necessarily entail the imperial economic model, so Fish sought to reinstate Spanish control in the island as the most expeditious means to enforce a free trade economy in the Caribbean.

Nevertheless, Fish was bombarded with letters and notes offering advice, or issuing threats, as to how to solve the imbroglio in Cuba. Echoing the popular sentiment, Fish received a letter from his assistant Secretary of State, John Bancroft Davis, which recounted his meeting with a former Union general aboard the train from Washington to New Jersey. He wrote that, "A little incident took place on the train yesterday which it is just as well you should know. Among

the passengers was a General Dent, who started from Washington so drunk that he couldn't speak plainly." Dent approached Davis, who he recognized as the assistant Secretary of State, and bullishly inquired as to what the State department would be doing about the *Virginius*. Davis responded that he was not sure. Dent, "came back to it and said, I understand you. You may pretend not to know, that's all right for you but I know all about it. I was in the next room at the last Cabinet meeting and I heard that it was all done... I want to be sent down there with my battery. I should like nothing better than to pitch into Moro castle." Much to Davis' dismay, Dent almost yelled the final part of his tirade throughout the train. However, Davis concluded that, "nobody was probably able to comprehend his thick drunken speech."¹²⁶

While Dent's drunken tirade and seeming declaration of war display the comical aspects of the American reaction to the affair, Fish also received darker messages. Addressed to Fish's office in Washington, and received on November 12th, a short message to the Secretary promised retribution if Fish did not attempt to free Cuba. Signed with the title of "One Hundred Cubans of New York", the letter addressed Fish, saying, "while you have been indolently waiting for 'Official Information', fifty more of our fellow-citizens have been massacred, their blood is upon your head. Prompt and manly action upon your part would have saved them." Further, the letter stated that, "we now demand your resignation from the office you disgrace; should our demand not be complied with in one day from its receipt, we have taken solemn oaths to revenge upon your person, the murders committed through your slothfulness."¹²⁷ Fish shrugged off the threats

¹²⁶ J.C.B. Davis to Hamilton Fish, November 9, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

¹²⁷ "One Hundred Cubans" to Hamilton Fish, November 12, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

of the letter, however the menace behind the death threats at least embodies the darker edge of the public response to the affair.¹²⁸

Following the revelations of the additional executions, received by November 12th in Washington, Fish publicly stated that the United States would not immediately pursue a declaration of war, as many demanded in the streets, nor would the government recognize the Cubans right of belligerency. Instead, Fish proposed to wait for more information, the policy that the “One Hundred Cubans of New York” so vehemently opposed. Following the events of November 14th, the twelve day ultimatum stayed further action until Thanksgiving, November 26th. Further, Fish asserted, the State department would take all steps necessary to exact retribution on the Spanish government, if they were determined to be at fault, in a manner concurrent with Fish’s free trade foreign policy. Similar to the Alabama claims, Fish asserted that the government in Madrid would be prosecuted internationally, embargoed, and forced to lower obstructing trade barriers in the Caribbean.¹²⁹

In order to construct a dynamic foreign policy strategy that could mitigate the public’s reaction to the affair in Cuba, Fish turned to jurist Edward Pierrepont for guidance. A graduate of Yale Law School, Pierrepont was a respected New York lawyer. He had advised Lincoln on the legal nuances of wartime law during the Civil War, served as the U.S. Attorney of New York, and was a member of the 1867 New York Constitutional Convention. Most recently, Pierrepont, as a member of the Committee of Seventy, had been instrumental in dismantling Boss Tweed’s Tammany Hall ring.¹³⁰ Fish was well acquainted with Pierrepont from his time as the governor

¹²⁸ Unsigned draft of internal state department memo, November 14, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

¹²⁹ “Secretary of State Announces Plans”, *New York Times*, November 19th, 1873.

¹³⁰ “Battling the Ring”, *New York Times*, September 24, 1871.

of New York; in fact, Pierrepont continued to address Fish as Governor throughout all of their correspondence.

Early in the affair, Fish called Pierrepont to Washington as a legal advisor. Pierrepont believed that the solution to the case of the *Virginus* had little legal precedent in international law, largely because international law was meager and inconsistent. Pierrepont believed that the proper American response would be found in Common Law doctrine. “The Common Law, of whose flexibility and general wisdom we are accustomed to boast, grew up, as you know, from decisions upon emergencies as they arose, applying the principles of justice and right reason to such cases...” To ensure a reasonable national reaction to the affair, he claimed, “the flexibility of the Common Law surely needs to be applied to International Law, which is yet extremely crude and in many of its precedents conflicting. To speak of the Law of Nations as even approaching an exact science is to talk nonsense....” Pierrepont then laid out the facts of the case:

...every ship except a pirate on the high seas with paper regular on their face is on the soil of her apparent nationality and that her capture is good cause of war against the government whose armed ship makes her capture. But because there is no precedent to support the contrary position, it does not follow that none ought to be made. The great volume of the Common Law was swelled to its present proportions by new precedents arising out of new circumstances.¹³¹

By tapping into Common Law precedent, Pierrepont advised Fish to establish a new principle of maritime relations. The most troubling legal matter in the *Virginus* Affair was the ship’s claim on the American flag. No precedent existed in international law to mitigate the potential response of a nation seizing the ship of another nation from retribution. In terms of the Law of Nations,

¹³¹ Edward Pierrepont to Hamilton Fish, November 10, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

Pierrepoint concluded, the war hawks throughout the United States had ample evidence for their views.

Pierrepoint also claimed that the principles of Common Law would perhaps allow a more flexible response. “I apprehend that we should have a case here where the rules of enlightened justice and right reason would make a new precedent...”¹³² By considering these principles, any reasonable nation could forgive the capture of a ship whose express purpose was illicit. The executions of the *Virginius*’s crew, however, posed a completely different problem. “The execution of the prisoners is a distinct question, and the atrocity of the act and its extreme haste present an ugly aspect, but I do not believe when all the facts are known that the question will be found beyond the reach of wise diplomacy.” Pierrepoint goes on to cite the Treaty of 1795, made between the U.S. and Spain, which provided each side with effective safe passage in the Caribbean without fear of violent reprisal. Spain, Pierrepoint affirmed, had violated the letter of the treaty, again giving legal rights for war, but he hoped that Fish’s measured foreign policy could avert such a disaster. “The country has such confidence in the President and, more importantly, in his cabinet that they will cheerfully follow where you may jointly lead; they will support you in war, if need be, and defend you in peace, if peace without disgrace is possible... I believe that your views are the views, or will become the views, of our best men.”¹³³ To a large extent, Fish based his foreign policy strategy off of the proscriptive legal measures supplied by Pierrepoint. At many points resisting the rising calls for war, Fish sought to implement a new precedent in foreign policy where peaceful diplomatic negotiation would supplant war as the means to settle disputes.

¹³² Ibid., Underline is in the original.

¹³³ Ibid.,

Despite the clarion calls for war trumpeted by the press, and echoed throughout great swathes of the United States, a minority of Americans voiced their support for Fish and his calls for a disciplined response to the *Virginius* Affair. These “best men”, as Pierrepont described them, were, by and large, Republican statesmen like Fish. They shared similar values, supporting Fish’s system of free trade foreign policy, many for wildly different reasons. Letters to Fish in the wake of the *Virginius* Affair best illustrate the arguments of these men.

One of the first letters of support that Fish received was from an old comrade across the Atlantic, Sir John Rose, who had helped orchestrate the Treaty of Washington. Fish had reached out to Rose as soon as suspicions arose concerning the place of the *Virginius*’s capture. While the ship was caught in international waters, a few miles outside of Cuba, hasty or irresponsible reporting claimed that the ship was seized right outside of Jamaica. The *Virginius* had last sailed from Kingston, but it was miles away from the port when the *Tornado* finally captured it. The unheeded entreaties of Theodore Brooks, the private British citizen in Santiago, also brought England into the larger discussion of the affair. Rose expressed his delight to be working with Fish again, writing, “I would be glad to do my utmost to clear up this whole abominable affair.”¹³⁴ As the actual evidence became clearer, Fish phased Britain out of the negotiations.¹³⁵ Despite this, the transatlantic contacts that Fish established during the Alabama Claims remained his most ardent supporters throughout the process of arbitration over the *Virginius*. Historians of the period repeatedly underemphasize the transatlantic support for Fish during the affair.¹³⁶ Fish’s international support serves as an example of the increasing global interconnectedness of

¹³⁴ Sir John Rose to Hamilton Fish, November 12, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

¹³⁵ C.C. Andrews to Hamilton Fish, November 15, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

¹³⁶ Bradford and Nevins rarely, if at all, mention Rose’s messages.

the United States during this period, and the extent to which foreign actors influenced American political policy.

Fellow Americans also bolstered Fish's strategy. Former congressman Samuel Shellabarger made a desperate petition to Fish to avoid war at all costs. Shellabarger wrote that any belligerent measures taken by the government would, "be an immense crime against the [American] people, against the best impulses and tendencies of the age, and would 'put out the light' which your administration, and especially its Washington Treaty, have lighted..." Shellabarger especially notes the popular sentiment towards the affair, and the common characterization of Fish as weak and ineffectual. "What is being poured in upon you by those of the opposite tendencies to this is either mercenary, disloyal, or mad."¹³⁷ Shellabarger's note emphasizes the previous precedent set by Fish's administration. By arbitrating peacefully with Britain, especially at a time when war against the imperial power would have been extremely injurious to the United States, Fish had initiated a new model of statesmanship in an age of war and violence. Shellabarger feared that, although Fish harbored no annexationist ideology, the furor that swept the nation clamoring for action would sway his strategy. Others shared his concern.

In a similar letter, John Norton Pomeroy, former dean of NYU Law School, shared similar sentiments. He wrote, "The indications are very plain of a concerted and vigorous attempt to coerce, as it were, the State Department and the Administration into a hostile attitude towards Spain." The goals of this coercion were simple. "The factitious excitement which many of the newspapers are endeavoring to create, seems to be directed towards the simple object of war with Spain and then, doubtless, conquest of Cuba." These newspapers, Pomeroy believed, participated

¹³⁷ Samuel Shallabarger to Hamilton Fish, November 17, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

in “exaggerating the popular excitement by frantic appeals to passion and prejudice... in ignorance of the plainest principles of International Law.” Contrary to Pierrepont, Pomeroy concluded that the United States had ample International Law precedent to ignore the capture of the *Virginus* without necessarily creating new jurisprudence. The precedent was set forward only a year earlier, indeed by Fish himself. “In the long Alabama controversy which Your department brought to such a happy close, principles were enforced by the United States which condemn the fraudulent use of a neutral flag...in aid of combatants.” Fish’s department could not, “abandon these principles in obedience to a sudden, thoughtless, and interested clamour...”¹³⁸ Pomeroy’s arguments clearly illustrate the piecemeal nature of international jurisprudence, however his entreaty to Fish to ignore the popular sentiment, echoed by Shellabarger, was wholeheartedly adopted by Fish.

Not every supporter of Fish followed along these lines, however. Responding to Fish’s requests for advice, William Cullen Bryant offered more practical reasons to ignore the public sentiment for war and annexation. “A war with Spain would be a real disaster for this country, and we do not want Cuba, with her ignorant population of negros, mulattos, and monteros...”¹³⁹ Bryant couched his argument in much starker realist terms. Cuba, he claimed, was inhabited by inferior people, “alien to our own population in language, manners, habits, and modes of thinking.” These Cubans, who he divides along racial lines of white and black, could never constitute a healthy addition to the burgeoning United States. In many ways, Bryant’s claims echo those of some strident anti-imperialists chastising the results of the War of 1898. Anti-Imperial leagues across the country sought to release Spain’s imperial possessions from U.S.

¹³⁸ John Norton Pomeroy to Hamilton Fish, November 21, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

¹³⁹ William Cullen Bryant to Hamilton Fish, November 19, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

control, not because of the unhealthy effects of imperialism on colonial states, but the injurious effects of inferior colonials on the metropole.¹⁴⁰ For these reasons, as opposed to principles of international law, Bryant believed that America should avoid the annexation of Cuba.

The desecration of the American flag aboard the *Virginius* and the execution of the ship's passengers posed a greater problem for Bryant. "There is the wrong done to our flag, the massacre of our fellow-citizens, the failure of the engagement of the government at Madrid to protect them, and the indolent defiance of our government implied in the execution of the prisoners... which must require satisfaction." However, that satisfaction should be taken within the imperial relationship between Spain and Cuba. Bryant proposed a radical reevaluation of Spain's imperial presence in Cuba. "[Spain] should declare the disobedient Volunteers in a state of insurrection – declare their proceedings to be treason, and if they could not be put down by the soldiery sent out from Spain, would arm the native Cubans to put them down." And, if done properly, "the boldness of the step and its conformity to justice would command the respect of the world." Such a step was highly unlikely. The waning prestige of the Spanish empire in international relations and domestic political conflicts in Spain elevated the importance of Spain's last remaining imperial possessions. Bryant's proposal was clearly idealistic, however it reflects the type of free trade foreign policy that Fish agreed with. Spain should confront its own imperial mess, and "the consequence might be that the island would become independent..."¹⁴¹ An independent Cuba, freed from imperial trade barriers, would satisfy the long term ambitions of Fish's foreign policy.

¹⁴⁰ For more information see Michael Patrick Cullinane *Liberty and American Anti-Imperialism: 1898-1909*, (New York: Palgrave Macmillan, 2012).

¹⁴¹ William Cullen Bryant to Hamilton Fish, November 19, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

The letters from Shellabarger, Pomeroy, and Bryant all offered differing justifications for a measured American response to the *Virginius* Affair. Fish drew heavily from advice like this to craft the official diplomatic strategy. In practice, the enactment of Fish's policy relied upon the United States' highest-ranking diplomat in Spain: Daniel Sickles.

Following his initial outburst against Carvajal, Sickles fumed inside his legation in Madrid. As Fish later recollected, Sickles had become carried away by the belligerent rhetoric of the American press. After being repeatedly ordered to maintain his legation until November 26th, Sickles awaited further orders in Madrid while angry mobs of Spaniards crowded around the American ministry.¹⁴² Carvajal, who claimed that the *Virginius* was undoubtedly a pirate ship and, thus, was treated in the proper manner, rejected Sickles' initial protests against Spain. As Fish crafted a measured official response with input from legal scholars and fellow policymakers, Sickles engaged in increasingly resentful exchanges with Carvajal. Carvajal, or so Sickles claimed, demanded that no reparations were needed for the capture of the ship or the executions of its crew. Sickles, it seemed, continued to follow Fish's early orders to demand reparations, however Fish worried that Sickles had phrased his words, "in rather hard language" and continued to antagonize the Spanish government.¹⁴³ Further, Sickles transmitted information poorly as well. Sickles had, "tried to force his own roughshod policy feeling that Fish and Grant were feeble in their stand. With this in mind, he even subtly misrepresented the Spanish attitude, cabling to Fish the less reasonable of their contentions and omitting some of the more conciliatory ones."¹⁴⁴

¹⁴² Daniel Sickles to Hamilton Fish, November 16, 1873. Daniel Sickles Papers, Library of Congress. Reel 2.

¹⁴³ John Foster to Hamilton Fish, November 15, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

¹⁴⁴ Swanberg, *Sickles the Incredible*, 350.

Perhaps recognizing the cataclysmic potential of Sickles' conflicts with Castelar, Fish excluded Sickles from all negotiations. Indeed, the matter was addressed almost entirely in Washington, among the corridors of the State Department, while Sickles fumed within his legation in Madrid. In practical terms, Fish began to conduct negotiations through the Spanish Minister to the U.S., Admiral Polo. Fish continued to meet with Polo regularly during the twelve-day ultimatum, and the Spanish Ambassador to the U.S. became Fish's direct line of contact to Castelar in Madrid, superseding Sickles. Polo would stay in contact with Carvajal and Castelar, and then bring their proposals directly to Fish. As this arrangement became more readily clear, Carvajal ignored Sickles' further protests, believing that he did not adequately represent the U.S. government.¹⁴⁵

Fish's official policy remained the enforcement of the twelve-day ultimatum. The *Virginus*, he claimed, was an officially recognized American merchant vessel bearing the flag of the United States, and thus Spain needed to make reparations for her capture. Between November 14th and November 26th, Carvajal and Polo repeatedly insisted that the *Virginus* was actually a piratical blockade-runner illegally flying the American colors. These two views were incompatible. Castelar and Carvajal recognized that the executions were unwarranted, but insisted that the punishment for such actions should take place solely within the colonial government.

On November 26th, the final day of the ultimatum, Carvajal and Castelar softened their policy. Early in the morning on the 26th, Polo visited Fish's house with news from Madrid. The government in Spain would recognize the conditions set forth by Fish: reparations would be made to the United States, and an official apology would be rendered for the desecration of the

¹⁴⁵ Polo de Bernabe to Hamilton Fish, November 21, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

American flag. A provision was also made stating that, if the *Virginus* could be deemed by a neutral third-party as a pirate vessel, then the apology would be unnecessary. Fish, again, refused on the basis that the desecration of the American flag represented a stain upon the national honor of the United States. Polo, who seemed to want peace as desperately as Fish, made a final compromise. The American government could investigate the status of the *Virginus*, and dispense with any negotiations following such an investigation. Fish conferred with Grant, who had been meeting with him at the time, and officially agreed with Polo's deal.¹⁴⁶

Between the end of November and early December, the official investigation, administered by Fish's son-in-law Sidney Webster, uncovered the total extent of the *Virginus*'s underhanded dealings.¹⁴⁷ Fish had been aware of the general character of the *Virginus*, informed by his consuls throughout the Caribbean, but he quickly repudiated the ship when its piratical nature posed a threat to his policy of international relations. As the days following the executions turned into weeks, the thundering calls for war eventually died out. Fish's free trade foreign policy had carried the day for peace.

A few weeks after the affair, one American reporter commented that, "no war between this country and the Spanish Republic is likely to grow out of the *Virginus* Affair. The American people certainly have great reasons to rejoice that war is to be averted, and at the same time that our national honor is to be maintained." The ardent annexationists, the articles continued, "will feel chagrined and not a little disgusted at this peaceful issue of the difficulty, but the country cannot afford to go to war to gratify this insignificant portion of the population."¹⁴⁸ While the sensationalist newspapers turned their attention back to the growing

¹⁴⁶ For a much more thorough description of the day to day decisions, miscommunications, and negotiations during these two weeks, see Bradford, *The Virginus Affair*, 87-107.

¹⁴⁷ For the entirety of the inquiry, see *FRUS, Spain, 1873*, 990-1022.

¹⁴⁸ "Dissipation of the War Cloud", *Maine Farmer*, December 6th, 1873.

economic troubles of the United States and the prosecution of Boss Tweed, the annexationist fervor that swept the nation largely dissipated. Fish had steered the immediate official action of the U.S. government away from belligerent public opinion, towards a strategy more amenable to his ideology. The Virginius Affair had been immediately resolved, and any potential military action to be taken by the U.S. or Spain averted. The long-term ramifications and negotiations surrounding reparations for the affair would be handled entirely through a policy of free trade foreign policy emplaced by the Secretary of State.

Chapter 5

Constructing an American World of Free Trade in the Aftermath of the *Virginius*

Official negotiations in Washington between Fish and Polo continued for several weeks. Between them, the two men resolved the return of the *Virginius* through diplomatic negotiations. As promised, Fish organized a federal review of the case. Between November 28th and December 6th, attorneys Elias Gutman and Sidney Webster interviewed the string of captains who had piloted the *Virginius* as well as Patterson, the willing tool of the New York Junta who had originally purchased the ship. To resolve the matter, the Attorney General, George H. Williams, made a final assessment of the entire affair. His review followed the precedent which Fish had followed in structuring his strategic response to the affair: affirming the value of free trade on the high seas, and maintaining all possible trading relationships with Spain and Cuba.

Williams, like Fish, thought the most important question of the case was whether or not the *Virginius* had a right to carry the American flag. “I am of the opinion that she had no such right,” he concluded. However, this did not exempt Spain from wrongdoing, he continued, “but I am also of the opinion that she was as much exempt from interference on the high seas by another power... [Spain] had no right to capture such a vessel on the high seas upon an apprehension that, in violation of the neutrality or navigation laws of the United States, she was on her way to assist said rebellions.”¹⁴⁹ While the illicit nature of the *Virginius* might have been well known, to both the Americans and the Spanish, the ship’s capture violated the sacrosanct inviolability of American trading vessels on the high seas. Although this conclusion might seem contradictory, it reinforces Fish’s protection of free trade at all costs. Even though Spain had significant evidence

¹⁴⁹ *FRUS, Spain, 1874*, 1115.

as to the *Virginus*'s piratical nature, the protection of the American flag needed to be unquestionably maintained.

Having solved the issue of the *Virginus*'s right to bear the American colors, Fish and Polo sent a joint cable to Cuba, ordering Captain-General Jovellar to release the *Virginus* from the port in Santiago. Initially in the conflict, Jovellar had stood by the actions of General Burriel in Santiago. Jovellar believed that a war with America in Cuba could help his Voluntarios in their battle against the Cuban insurrectionists. Fish's decision to lay the blame for the actions on Jovellar and the Voluntarios of the Casino in Cuba, however, deterred him from his initial aims. When the cable came through to Havana, he waited for two days, contemplating potential action. On December 11th, he finally accepted the terms that had been agreed upon by Polo and Fish. In a public speech, recorded by the U.S. General-Consul in Havana, Jovellar claimed that any noncompliance with the agreement would, "bring on war, war with great power, and war without the aid of Spain..."¹⁵⁰ Any hope of reinvigorating the Voluntarios' war against the Cespedes' Cubans was lost through Fish's foreign policy strategy.

On December 12th, the *Isabel*, a tugboat, connected to the *Virginus* and began its long tow back to New York. Because the American commission had found that the ship was flying the American flag without a right, no flag was raised above the vessel as it was taken out of the harbor.¹⁵¹

Although the *Virginus* lost its right to carry the American flag, Spanish soldiers had desecrated the colors of the United States upon capturing the ship, spitting on and tearing the

¹⁵⁰ Henry Hall to Hamilton Fish, December 12th, 1873.

¹⁵¹ *FRUS, Spain, 1874*, 1024.

flag. The policymakers in Washington did not take this lightly.¹⁵² Under advice from Secretary of the Navy Robeson, Fish had included a provision in his treaty with Polo that required the saluting of the American flag by General Burriel and his men. In military matters, as Fish was advised, the treatment of a national flag following desecration was paramount to the national honor.¹⁵³ Urged to obey the treaty by Jovellar and Hall, the American consul, in Havana, Burriel repeatedly refused. He claimed that neither he nor his men had violated the flag because the *Virginius* had no right to bear it in the first place. This revitalized the complex legal debate that Polo and Fish had painstakingly negotiated in the preceding weeks. Tired of the endeavor, Fish finally cabled Havana telling Hall to disregard the salute. If such a trifling matter was going to cause further conflict, then the U.S. could ignore the military ceremony.¹⁵⁴

Another problem remained in Santiago. Following the aversion of conflict over the flag, the final piece of the *Virginius* Affair needed to be resolved: the ninety-one remaining passengers and crew left imprisoned in Santiago. After spending almost two months in the harbor jail, the prisoners were finally released on December 18th. A boat provided by the American government, the *Juniata*, offered any willing passengers free passage back to the United States. Much to the chagrin of the sensationalist newspapers in the United States who had called for war over the imprisonment of “nearly a hundred fellow Americans”, only thirteen of the remaining ninety-one prisoners were American citizens.¹⁵⁵ Despite this, every prisoner elected to travel back to the United States aboard the *Juniata*. Little is known about the fates of the *Virginius*'s crew and passengers, though the Cuban Junta of New York sheltered and

¹⁵² One of the largest debates that Polo and Fish had was over the status of the torn flag. It became the topic of discussion at cabinet meetings several times in November and December. See Bradford, *The Virginius Affair*, 88-105.

¹⁵³ George Robeson to Hamilton Fish, November 18, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 4.

¹⁵⁴ Hamilton Fish to Henry Hall, December 13, 1873.

¹⁵⁵ “Ship Captured by Cuba”, *New York Sun*, November 12, 1873.

provided for several dozen of the would-be Cuban revolutionaries, freshly back from their homeland.¹⁵⁶

With the return of the *Virginius*, the resolution of the desecrated flag, and the departure of the imprisoned passengers and crew, all of the lingering contentions of the Virginius Affair had been neatly resolved. Echoes of the event, however, would widely reverberate throughout the United States and Spain. The effects of the affair shaped Spanish politics and caused the U.S. State Department to reconsider the importance of American-Spanish relations.

While Fish and Polo ironed out the details of the agreement between the U.S. and Spain, Sickles remained within his legation in Madrid. Upon hearing that an agreement had been reached on November 26th, Sickles reacted furiously. He believed Fish had betrayed him; against the will of his political ally Grant. Distanced from the center of power in Washington, however, Sickles was unaware of the enormous traction that Fish's free trade foreign policy had gained in the White House. Grant was easily swayed by Fish's strategies for diplomatic peace, and Sickles had misjudged the importance of his role in negotiating the affair. Enraged over being cut out from the process, Sickles tendered his resignation on December 8th.

Sickles was certain that, if the country were made aware of his own stance on the matter, he would be vindicated as the hero of the affair. Grant and Fish, in his mind, had grown weak and feeble, and his own policies would have carried the day. Sickles fervently believed that his correspondence with Fish, where he demanded to evacuate Madrid early, would be taken up as evidence of his belligerence and widely lauded by the American people. One of Fish's allies against Sickles was Elihu Washburne, former Secretary of State and the Minister to France during the Virginius Affair. In their correspondence, Washburne joined Fish in ridicule for the irate Sickles. Washburne wrote, "I cannot imagine why [Sickles] should get up such trumpery,

¹⁵⁶ "Crew of the *Virginius* Welcomed by Junta" *New York Times*, December 31st, 1873.

unless he has become mad with the whole world and is striking out wild.” Sickles, Washburne claimed, had made it known throughout Europe that, “he has become possessed of compromising information in regard to you and that you are to be demolished on his return home.” Sickles still retained aspirations to higher public office, even the presidency, and he envisioned Fish as his rival within the Republican Party. Washburne concluded dryly, “It is well perhaps that you should be advised of this, in order that you may be prepared to be demolished with decency.”¹⁵⁷

Fish, evidently, was never demolished. In his response to Washburne, Fish argues that Sickles’ wrath was baseless. “He was treated with every consideration and courtesy.” In fact, Sickles was the architect of his own removal from the affair. “It was early evident that there was a personal difficulty between him and the Minister of Foreign Affairs, and it was manifest that the Spanish Ministry preferred to transfer the negotiations to Washington.” As he had done with the Alabama Claims, Fish centralized the avenue of international diplomacy, removing unnecessary representatives when possible. There were practical reasons for the removal as well, he wrote, “the question was too grave, and the issue too momentous to allow a mere question of etiquette to stand in the way. Congress was soon coming together, and the press and the people were excited to a degree seldom known. The telegraph was unreliable[sic].”¹⁵⁸ Again, Fish sought to handle the resolution of the affair entirely within his own State department, noting the reconvening of Congress as inopportune for the execution of foreign affairs. Fish had many theories explaining Sickles’ wroth, but his primary concern remained the implementation and maintenance of his foreign policy standards. By excising Sickles from the negotiation, Fish reinforced his free trade foreign policy. Potential conflict was mediated through discussion by

¹⁵⁷ J.C.B. Davis to Hamilton Fish, February 12, 1874. Hamilton Fish Papers, Library of Congress. Box 314, folder 7.

¹⁵⁸ Elihu Washburne to Hamilton Fish, February 12, 1874. Hamilton Fish Papers, Library of Congress. Box 314, folder 7.

the central authorities rather than through military action. Principles of international law were then invoked, or created, to substantiate the resolution.

Sickles' desperation to leave Madrid, Fish admitted, had also influenced the decision. "It is true that his precipitate and unauthorized determination to leave and close the legation eight days before the time prescribed therefore in his instructions, had led to an apprehension that his usual coolness had abandoned him..." Considering his rash and violent history, it seemed that Sickles' "usual coolness" was a rare occurrence. Despite this, Fish understood Sickles' anger as most likely a symptom of his character. And, in the end, he concluded that Sickles' ire was more easily directed towards the Secretary of State than the president. "However, [Sickles] has taken offence, and it will be easier and more popular to attack me than the President, so I suppose that I must expect the wrath of the late minister."¹⁵⁹

Fish concluded his letter on an optimistic note, "it seems that Cushing will sail next week in the French Steamers, at least, such was his intention when he took leave of me yesterday."¹⁶⁰ The Cushing that Fish is referring to was none other than Caleb Cushing, the experienced jurist and scholar of Spanish history who published extensively on the politics of Spain. In his typical manner of delegation, President Grant had given Fish free rein to pick Sickles' successor. In a letter to the president, Fish commented that the appointment of Cushing, "will likely result in more satisfactory negotiations than that of any other man."¹⁶¹ Fish highly respected Cushing, and his appointment was unsurprising considering his background. Fluent in Spanish – as well as French, German, and Italian – Cushing had traveled extensively throughout Spain in the nineteenth century. As a lawyer, he had even performed law in Madrid for several years. In 1872,

¹⁵⁹ Ibid.,

¹⁶⁰ Ibid.,

¹⁶¹ Hamilton Fish to Ulysses S. Grant, December 22, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

Cushing had been one of the leading jurists arguing for the United States in the Alabama Claims.¹⁶²

More importantly, Fish believed that Cushing's views on foreign relations were aligned with his. In his letter of recommendation to Grant, Fish commented that Cushing "is in entire harmony with your own views and policy with regard to Cuba as well as with regard to other questions."¹⁶³ Typical conceptions of Grant portray him as an ardent annexationist, indeed his early association with men like Rawlins and Sickles inclined his opinion towards annexation of Cuba.¹⁶⁴ The failed annexation of Santo Domingo in 1869 only illustrates that Grant was under sway from the annexationist faction within his own party. When Fish mentioned in the letter that Cushing's beliefs matched the president's, Fish really meant that Cushing aligned with the Secretary of State, who had consolidated ideological control over the president and the cabinet by 1872, instituting an ideology of free trade foreign policy in place of annexation.

Cushing eventually came to accept Fish's offer for the ambassadorship, but a curious situation in Washington delayed his initial consent. Earlier in 1873, Chief Justice Salmon P. Chase had died while in office. His seat remained vacant for over half a year, the Senate refusing to accept any of Grant's nominations. Cushing had been the latest in a long line of potential Chief Justices; his appointment was being debated in the Senate while the Virginius Affair played out. Cushing had a long and distinguished law career, however the consensus in the Senate was that Cushing was simply a too mild candidate. His legal work was efficient, but he never properly staked any political or legal claims. One politician commented, "it is universally

¹⁶² Hamilton Fish to Ulysses S. Grant, December 23, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

¹⁶³ Hamilton Fish to Ulysses S. Grant, December 22, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

¹⁶⁴ William McFeely, *Grant*, (New York: W.W. Norton & Company, 2002).

believed that [Cushing] is to be without convictions of any kind.”¹⁶⁵ Gouverneur Kemble, another ally of Fish’s, expressed similar sentiments. “Mr. Cushing is certainly an able lawyer and advocate on any side he takes, but he is not conciliatory either as a man or an advocate; in persevering industry no man can exceed him, and his range of acquired knowledge is immense.” Despite this, Cushing was, “wanting in any high and devoted principle of action.”¹⁶⁶ While such a tame presence was deemed unfit for the Supreme Court, Cushing’s lackluster political convictions served Fish’s needs perfectly. In a way, he would become the reverse of Sickles: disciplined, focused, and supervised effectively by Fish in Washington.

With his chances of being appointed Chief Justice slim, Grant withdrew the nomination. Under Fish’s advisement, Grant nominated Cushing for the U.S. Ministry to Spain. The Senate approved of Cushing’s new post within the week. Preparing to travel to Spain, Cushing penned a letter to his old friend William Evarts, who would eventually replace Fish as the Secretary of State. In his letter, Cushing expressed his delight with Fish’s handling of the *Virginus* Affair. However, the success of Fish’s foreign policy, he concluded, was primarily due to the receptive character of President Castelar in Spain. Recognizing their transatlantic Republican ties, Cushing praised the Spanish president for his willingness to cooperate over the matter instead of letting the affair devolve into war.

There was one problem with this, however. Weakened politically by the *Virginus* Affair resolutions, which the Spanish press saw as favoring the United States, and physically debilitated by an unknown illness, Castelar was thrown out of office in early January. Beginning on January 3rd, the Cortes in Spain initiated a vote of no confidence in the aging president. Within two days,

¹⁶⁵ Wayne MacVeagh to Hamilton Fish, January 13, 1874. Hamilton Fish Papers, Library of Congress. Box 314, folder 6.

¹⁶⁶ Gouverneur Kemble to Hamilton Fish, January 15, 1874. Hamilton Fish Papers, Library of Congress. Box 314, folder 6.

Castelar resigned from office. General Don Manuel Pavia, the Captain-General of Madrid, moved quickly to secure a military coup of the government.¹⁶⁷

Cushing departed for Spain in early March. During his trip, however, he would find the conditions in Madrid fundamentally changed. Bowing to the national will, Pavia orchestrated a series of elections. The leader of another failed coup, General Francisco Serrano, was recalled by Pavia as the prime candidate in the election. Serrano was granted full dictatorial powers by the Cortes. While the Republic of Spain might have officially existed, it was a sham. Upon Cushing's arrival in Spain, the newly elected president Serrano, a king in everything but the name, greeted him. America's short-lived Republican brotherhood with Spain had officially ended.¹⁶⁸

Considering the drastic political transitions with the peninsula, the official United States policy towards Spain was considered in flux. No longer a republic, staunchly refusing further entreaties to reduce the Cuban tariff, and more concerned with the domestic Carlist rebellion, Spain had fundamentally transformed. Any gains that had been made politically with Castelar had been abandoned when Pavia's troops seized control of Madrid. Sickles' belated note detailing a further discussion concerning the relaxation of trade barriers in Cuba was starkly ignored by the new administration. Several of Fish's allies in the government and out offered advice on new steps to take in the wake of the *Virginius* Affair.

George Henry Boker, the U.S. Minister to Turkey and a lifelong diplomat, considered Fish's handling of the *Virginius* Affair as critical to stability within Spain. Ignoring the context of the domestic political struggle within the peninsula, Boker commented that, "as for the

¹⁶⁷ Bradford, *The Virginius Affair*, 121-122.

¹⁶⁸ Many of Fish's correspondents, as well as Fish himself, bemoan the failure of Spain's Republic. See: Gouverneur Kemble to Hamilton Fish, January 15th, 1874. Hamilton Fish Papers, Library of Congress. Box 314, folder 6; CC Andrews to Hamilton Fish, December 30th, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5; Hamilton Fish Diary, January 10th, 1874.

struggling Spanish government, its gratitude to you should be boundless. You have done nothing less than save Spain from absolute anarchy, and given her a last and strong hope of establishing her imperiled republican institutions.” By “saving” Spain from war with the United States, Boker believed that Fish had averted potential embarrassment for the incipient republic in Europe. “It would have been an ungracious thing for us, of all people, to strike an external blow to the nascent Republic...” Indeed, Boker argued that the herculean Fish did all of this, “in the face of an angry people, howling for hostilities, and in opposition to an absurd Spanish government, proverbial for its pride and want of common sense.”¹⁶⁹ While some of the specifics of Boker’s claims may not hold true under scrutiny, his portrayal of the affair highlights the keen attitude among many policymakers and diplomats to encourage republicanism abroad and establish ties with similar governments.

Echoing the ambitions of Fish’s own free trade foreign policy, one correspondent suggested that the Virginius Affair had been resolved well, but the political disaster in Spain ruined any chance for Cuba to become independent, and released from Spanish economic control. He wrote, “I have all along hoped almost against hope that the results would be a separation of the island from the sovereignty of Spain, and an independent Republic established...”¹⁷⁰ While such a situation would satisfy the scope of Fish’s conception of trade, the independence of Cuba was not a necessary condition. Indeed, Fish took the opposite view. He believed that the Virginius Affair was an unmitigated success for his foreign policy strategies, and Spain would soon liberalize trade in Cuba. In another letter to Gouverneur Kemble, Fish claimed that the handling of the affair promoted his free trade foreign policy goals.

¹⁶⁹ George Henry Boker to Hamilton Fish, December 31, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

¹⁷⁰ B.H. Wright to Hamilton Fish, December 5, 1874. Hamilton Fish Papers, Library of Congress. Box 314, folder 5. Hamilton Fish Papers, box 314, folder 5. B.H. Wright to Fish, December 5th, 1873.

He characterized the affair as a “fruitful source of trouble”: potentially dangerous during the negotiations, but serving the long-term goals of the United States.¹⁷¹ According to Fish, the United States now had greater leverage to influence serious economic policy changes in the Spanish empire. Through peacetime negotiations, Fish remained convinced that he would achieve the goals of free trade foreign policy.

On the other side of the spectrum, George Alfred Townsend, a famous war correspondent for the *Chicago Tribune*, advocated an aggressive policy towards Spain to consolidate the victory of the affair, especially considering their present political turmoil. “I hope you will see your way clear to close up this Cuban foolishness by resolving upon an act of war,” he began, “The island is rich. The Spanish are mere bloodhounds upon it. The country can stand war.” This realist breakdown of the situation would, in later years, be seen as justification for the eventual conquest of Spain’s imperial possessions in the war of 1898.¹⁷² Perhaps most critically for Townsend, however, Fish had already averted a direct military response for the Virginius Affair, so a declaration of war could be seen as measured rather than hasty. “...your mildness and equity hitherto will give dignity to the act of throwing the scabbard.”¹⁷³ While Fish never considered a declaration of war, Townsend’s belligerent rhetoric spoke to the continued presence of militant ideology towards Cuba in the United States. Fish’s reticence to engage in war and his dedication to a free trade ideology, perhaps, is even more impressive considering the realist politics arrayed against him in the wake of the affair.

¹⁷¹ Hamilton Fish to Gouverneur Kemble, December 11th, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

¹⁷² This economic justification was championed by New Left historians of American diplomacy. For examples of this see, William Appleman Williams, *The Tragedy of American Diplomacy*, (New York: Oxford University Press, 1980); Walter LaFeber, *The New Empire: An Interpretation of American Expansion 1860-1898*, (Ithaca: Cornell University Press, 1963).

¹⁷³ George Alfred Townsend to Hamilton Fish, December 8, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

Cushing's old friend William Evarts also sought to advise Fish in the wake of the *Virginius* incident. During the affair, Evarts had spoken at a large meeting of belligerent agitators held at Steinway hall. He put his faith in Secretary of State Fish, and underlined the critical importance of moderation in international affairs. Evarts' letter to Fish highlighted these principles. Further, Evarts claimed that, "our government will need to take a somewhat earnest and responsible interest in the relations of Cuba and Spain..." While Fish had certainly included Cuba within his foreign policy strategies, Evarts insisted upon the importance of Spain as a potential consideration in future foreign policy debates. However, he continued, "our own relations to Cuba remain permanent and paramount."¹⁷⁴ In 1876, Evarts would replace Fish as the Secretary of State.

Considering the advice, Fish continued to perpetuate his doctrine of free trade foreign policy in relation to Spain. Spain was no longer a republic, but the exact mode of government did not shape the imperial economic relationship held by Spain with its Caribbean colonies. Fish continued to pressure Serrano and, after his deposing in 1874, his successor Alfonso XII. Serrano and Alfonso eagerly sought to reinforce ties with America, although largely as a means to settle the ongoing Cuban insurrection.¹⁷⁵

In Cuba, independence became an increasingly distant dream. While Castelar had authorized the allocation of several thousand Spanish troops to Cuba early in his presidency, Serrano deployed the full might of the Spanish navy and army against Cespedes' revolutionaries.¹⁷⁶ To many scholars, the *Virginius* Affair is seen as the turning point in the

¹⁷⁴ William Evarts to Hamilton Fish, November 30, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

¹⁷⁵ French Ensor Chadwick, *The Relations of the United States and Spain*, (New York: Scribner, 1909), 358-376.

¹⁷⁶ For information on Castelar's initial deployment of troops see Daniel Sickles to Hamilton Fish, August 26th, 1871. For more information on the Cuban Ten Years War see Louis A. Perez Jr., *Cuba: Between Reform and Revolution*, (New York: Oxford University Press, 2005).

Cuban's war for revolution. Early in the war, Cespedes and Quesada saw the United States as one of their greatest hopes in ending the war swiftly with Spain. Whether through annexation or support, America could have provided an immediate resolution of the conflict. Following the affair, however, the United States continued its indirect foreign policy initiatives, lobbying in Spain and maintaining the freedom of the seas in the Caribbean. With his unmitigated success in negotiating the affair, Fish further consolidated his ideological control over the foreign policy strategies of the United States. Annexationists in Washington were relatively silent throughout the remainder of Fish's tenure as Secretary of State.

Fish's practice of free trade foreign policy was significantly bolstered throughout the remainder of his tenure by the creation of several high-profile free trade societies. Led by prominent intellectuals and activists, these leagues were formed throughout the northeast, creating clubs in New York, Ohio, Maine, New Jersey, and Massachusetts.¹⁷⁷ While, intellectually, free trade economics dominated the intellectual discussion, the appearances of such clubs indicated a broader domestic support among activists and citizens alike. Further, the widespread economic malaise precipitated by the Panic of 1873 still gripped the country, and free trade economics were seen as a potential solution. The United States remained firmly entrenched within the policy of a protectionist tariff, but the increasing public support presaged the broad shift towards international free trade later in the coming decades.

One of the most eager proponents of this free trade movement was Nathan Appleton. The youngest son of a prosperous merchant family, Appleton was divorced from the prominent intellectual milieu dominated by figures like Sumner and George. However, Appleton, and other activists like him, formed the high-minded economic principles of economists into a more

¹⁷⁷ For the bylaws and registration of several of these clubs, see Nathan Appleton Papers, Library of Congress. Box 1, folders 2-4.

popular and accessible rhetoric of international peace and prosperity. One commentator wrote of Appleton's frequently published pieces, "Mr. Appleton's argument is clear, not burdened by elaborate theories, and is easy of comprehension by the slightest student of financial questions."¹⁷⁸ Writing in 1876 in an open letter published in several newspapers throughout the nation to the protectionist Henry C. Carey, Appleton explicated the domestic policies of free trade as preserving global peace, as Fish had put into practice. Appleton wrote, "There is, moreover, another powerful agency at work to aid the cause of free trade, and that is the desire of mankind to stop war, and the tendency to settle international disputes by arbitration."¹⁷⁹ This type of foreign policy based on diplomatic negotiations was widely employed by Fish, and Fish's initiatives created several precedents for future arbitrations.

Free trade advocates like Appleton consistently related domestic policy and trade regulations to the international sphere. In a widely circulated pamphlet, the New York Free Trade Club, founded by activists like Appleton, expressed this relationship in clear terms. The platform of the club included five fundamental pillars. First, grounded in classical legal thought, "trade restrictions are infringements upon individual liberty, and are inconsistent with the non-interference principles of a Republican Government. Next, free trade would, "permit the cultivation and manufacture of all commodities in the places best fitted by nature for their production..." While such a conception is hardly verifiable, the predominance of such an ideology among the intellectuals held great sway among the populace. Third, "the enforcement of direct and simple methods of collecting revenue will be conducive to economy in disbursements." Free traders proposed, building upon Lincoln's wartime measure, a direct income tax upon citizens. While eliminating the indirect tariff and replacing it with a direct tax

¹⁷⁸ Nathan Appleton Papers, Library of Congress. Box 1, folder 3, "Free Trade and Finance", published in the Boston Daily Globe, July 28th, 1876.

¹⁷⁹ Ibid.,

would assumedly provoke resistance, the purported organizational prowess of free trade would mediate the damages. Free trade would, next, “remove existing inducements for the unscrupulous to become law breakers by evading excessive tariffs.” Piracy and bootlegging would, in this conception, be wiped out thanks to free trade. Finally, and most importantly considering the practical initiatives of Fish, free trade would inevitably result in, “creating a community of interests between nations that will contribute to the maintenance of peace.”¹⁸⁰ This intertwined relationship between domestic economics and foreign affairs was broadly played out in the actions of Fish, and the handling and aftermath of the *Virginius* Affair.

All of these free trade clubs viewed the tariff as an oppressive government regulation inconsistent with domestic policies of restraint. As mentioned by Appleton and in the first pillar of the New York Free Trade Club’s ideology, the tariff was a largely invisible means by which the government controlled American foreign policy and trade. By de-regulating the market for foreign investment, Appleton and others posited that America’s domestic economic output would finally stabilize. In this sense, free traders were challenging an activist government in an era widely considered as the pinnacle of unrestrained trade.¹⁸¹ These popular conceptions of the late nineteenth century as a free market were largely created by twentieth century economists eager to implement a global free trade policy. Activists like Appleton espoused a similar ideology, yet the dominant mischaracterization of the era precludes the ideological struggles of nineteenth century free traders in implementing significant changes in American foreign policy and economics.

¹⁸⁰ Nathan Appleton Papers, Library of Congress. Box 1, folder 7, “The New York Free Trade Club”, 1877.

¹⁸¹ Twentieth-century free trade economists championed this conception of American history, and wanted to “return” to a nineteenth-century trade free trade economic system. For an analysis of this phenomenon see, Angus Burgin, *The Great Persuasion: Reinventing Free Markets since the Depression*, (Cambridge: Harvard University Press, 2012).

In addition to the economic principles espoused by free traders, which underlay Fish's free trade foreign policy, the rhetoric of free trade in the years following the *Virginus* Affair reveals the political dimensions of his strategies. A free trade society could only properly function if other nations espoused a similar ideology. Britain, the United States' main trading partner throughout the era, shared similar policies of free trade in the late nineteenth century. The relationship between such policies and style of government was not lost on policymakers, evidenced by the heavy emphasis that Americans placed on Spain's new republican government led by Castelar. In this way, Fish's foreign policies can be seen as perpetuating a global model of republican-free trade principles as a means to stabilize the American economy. By stabilizing conditions in Spain based on a shared conception of Republican brotherhood, Fish maintained democratic principles abroad. Although Spain would fall back into monarchy in the ensuing years, the relationship between the political and economic aspects of American foreign policy should not be understated in this era. In his long letter to Fish, American diplomat George Boker commented on this in the wake of the *Virginus* Affair, "In the hands of God, Hamilton, you have made yourself an instrument of much good to a world slowly groping its way towards popular freedom."¹⁸² Predating the globalist ideology of Woodrow Wilson by several decades, the actions of Hamilton Fish throughout his tenure as Secretary of State, especially during his handling of the *Virginus* Affair, reflect a principles free trade foreign policy which would, ideally, make the world safe for democracy – and more importantly, safe for American trading.¹⁸³

Wilson, it seems, was even made aware of Fish's actions during his time as president. International jurist John Bassett Moore, an ally and advisor to Wilson as well as the first U.S.

¹⁸² George Henry Boker to Hamilton Fish, December 31, 1873. Hamilton Fish Papers, Library of Congress. Box 314, folder 5.

member of the World Court, recognized Hamilton Fish as a model international diplomat.

Working mainly in the early twentieth century, Moore was captivated by the work of Fish. He transcribed almost all of Fish's correspondence into type for easier access to present international precedent, and he even wrote the introduction to Allan Nevins's Pulitzer Prize winning biography of the Secretary of State. Writing about Fish's ideology of foreign policy, Moore raved, "[Fish] had in his mind a well-matured and definite plan, and he understood its execution would take time. He knew that causes of irritation must be avoided, but that no concession must be made from his country's lawful and substantial rights."¹⁸⁴ In Fish, Moore saw the future potential of the United States in the world.

In practical terms, Fish's successes would not last throughout the century. In 1898, the United States would finally enter into the war with Spain that Fish had so deftly stopped twenty-five years earlier. In many cases, the sensationalized press that had castigated Fish in 1873 again exerted massive influence over the American populace, reshaping American perceptions of foreign policy. Pulitzer and Hearst recast journalism in the 1880s, and, when the U.S.S. Maine exploded, they quickly recast the history of the *Virginius* Affair as an unsolved precursor to the ensuing war. Spain, newspapers across the country read, had consistently violated American rights – “think of the *Virginius* Affair!” - and the executed American citizens in Santiago needed to be avenged as surely as the fallen Maine.¹⁸⁵

In a strange way, the *Virginius* Affair contributed to the hastiness of the War of 1898. Following the diplomatic resolution of the conflict, Fish called for a reevaluation of America's naval forces. Spearheaded by Secretary of the Navy George Robeson, a long process of

¹⁸⁴ Allan Nevins, *Hamilton Fish*, xv.

¹⁸⁵ For more information on this, see the introduction to Bradford, *The Virginius Affair*, 1-15.

technological modernization and improvements of America's aging ironclads began in 1873.¹⁸⁶ By 1898, the American Navy had been thoroughly renovated, and American naval superiority quickly disabled Spanish military effectiveness with key raids at Santiago and Manila. This relation was not lost upon the agitators for war in 1898. One reporter noted the similarity between the potential conflict in 1873 and the mobilization of 1898, writing, "The fleet at Key West will be augmented within the day by the arrival of several more gunboats... These and the other vessels previously ordered to that point constitute the largest assemblage of war vessels made since the *Virginius* affairs..." Considering the naval might of the United States in 1873, the reporter continued, "although formidable in its day, this aggregation was made up of the old style wooden ships, monitors which had gone through the civil war... Compared with the modern battleships and cruisers of the new navy, it was insignificant..."¹⁸⁷ In its own indirect way, the danger of the *Virginius* Affair had contributed to the eventual conflict which Fish had so desperately tried to prevent.¹⁸⁸

To a large extent, the case of the *Virginius*, its long circuitous route through the Caribbean, its capture, and eventual return have been lost from the public memory. As jingoist justification for a profitable war with Spain, the particularities of the *Virginius* Affair served a sensationalized purpose to galvanize belligerence throughout the states. In its own time, however, the handling of the *Virginius* Affair revealed several key aspects of American foreign policy and economic principles in a time long thought to be caught up in unrestricted trade.

¹⁸⁶ George Robeson to Hamilton Fish, February 18, 1874. Hamilton Fish Papers, Library of Congress. Box 314, folder 7.

¹⁸⁷ "Big Fleet at Key West", *New York Times*, March 17th, 1898.

¹⁸⁸ A strange coincidence further illuminates this irony. When war was declared against Spain in 1898, Theodore Roosevelt mobilized a unit of well-educated young men from New York into his famed Rough Riders brigade. Hamilton Fish II, Fish's oldest grandson, volunteered for the unit. On June 24th, 1898, Hamilton Fish II became the first casualty of the War of 1898 when he was killed outside of Santiago, Cuba, near the same city where the *Virginius* had been held, and from where his grandfather had deterred war against Spain a generation earlier.

Through his handling of the affair, Hamilton Fish repeatedly sought to liberalize the trade barriers of an imperial economic order.

The conflicting intellectual and practical principles of trade, free trade opposed to protectionism, infused a greater debate over foreign policy. Although principles of free trade did not necessarily entail the idealized utopian vision which accompanied the philosophy, the principles espoused by free traders deeply resonated with the U.S. State Department. Embodied in Secretary of State Hamilton Fish, principles of free trade economics shaped an American diplomatic approach to foreign affairs defined by peaceful arbitration and the relaxation of trade barriers. By constantly seeking to promote American trade interests, Fish supported a broader vision of global free trade even though the United States retained a protectionist economic order at home. With Fish's political success, broader social movements began to adopt the interrelated rhetoric of domestic policy and foreign trade, conjoining the United States with world affairs in a revolutionary way. This conception of Americanism would be molded and altered over the following decades, but the discourse prompted by the actions of Fish and similar free trade foreign policymakers would remain within the discourse of American politics.

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