

THE SPANISH ABOLITION LAW OF 1870: A STUDY IN LEGISLATIVE RELUCTANCE

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ON July 4, 1870, the Spanish Cortes enacted legislation designed to effect the abolition of slavery in Cuba and Puerto Rico. However, the failure of the Spanish government to apply the law proved to be an embarrassing fact in her diplomatic relations, and it created an interesting contradiction of purpose. It is the intent of this article to discuss the source of such a contradiction: the Moret Law of 1870, which provided a scheme for the abolition of slavery, and the evidence which suggests that the primary purpose of the law was not the express one but rather, conservation of Spanish dominion in the Antilles.

In order to appreciate the pivotal point that this Law once occupied in the foreign affairs of Spain, we may briefly recapitulate the development of the abolitionist pressures that forced Spain to adopt such a measure. To begin with, the British had long looked forward to the law of 1870. It was they who at the Congress of Vienna actually forced from the restored Spanish monarch Fernando VII a promise to abolish the slave trade in the Spanish empire. The result was the treaty of 1817, a treaty which had no basis in the public opinion of Spain or the Spanish Antilles.¹ From that date until 1860 the problem of abolishing the slave trade and slavery in the Spanish Caribbean remained almost exclusively an Anglo-Spanish, diplomatic one,² that is to say, it caused relatively little reverberation outside of diplomatic circles.

But it must be acknowledged that, in spite of almost a half century of British bluster and protest, neither slavery nor the slave trade seemed on the way to elimination in Cuba by 1860. Forced to support Spanish dominion in the Antilles in the face of the growing menace

¹ José Antonio Saco has much to say on public opinion and the slave question in *Historia de la esclavitud de la raza africana en el nuevo mundo y en especial en los países hispanoamericanos* (4 vols., Barcelona, 1879), Vol. III.

² An important collection of Anglo-Spanish diplomatic correspondence on the slave trade controversy is found in the Archivo Histórico Nacional de Madrid, Sección de Estado: *subsección de esclavitud* (1817-1860).

of the United States, British abolitionist pressure by itself did not prove sufficient. Had there not been a civil war in the United States, one wonders how long the slave problem would have continued to embarrass a vacillating Spanish government. The American Civil War was a turning point, for it coincided with and stimulated the rise of reform sentiment in the Antilles and in Spain itself among the younger liberals. In this changing atmosphere it was possible for the Puerto Rican Julio Vizcarrondo and the Cuban born Rafael Maria de Labra to found the Spanish Abolitionist Society in 1865. This provided a much-needed internal complement to foreign abolitionist pressures.³

The fear that the United States might launch an active abolitionist policy in the Caribbean, endangering Spain's grip on the Antilles, led to abolitionist cries in the Cortes and this in turn to the more effective law of 1866 against the slave trade. Spain, however, still stubbornly refused to label slave-smuggling a crime of piracy.⁴

Recognition of the growing reform sentiment in the colonies and in the metropolis led to the inauguration of the ill-fated colonial reform commission (*Junta de Información de Ultramar*) of 1866-67.⁵ This had two chief results: first, it revealed an amazing abolitionist sentiment in Puerto Rico which, in the words of the Puerto Rican José Acosta, hurled the first harpoon into the whale of slavery;⁶ second, the failure of the Spanish government to respect the recommendations of the Commission led directly to a revolutionary phase of the slave problem.

The crisis was reached in the period 1868-73 following the outbreak of revolutions in both Spain and Cuba. Abolitionism was now inextricably mixed with revolutionary movements, war policies and American diplomacy. In the Peninsula, the long chain of reactionary and semi-reactionary ministries under the fat and fussy Isabel, the Bourbon queen, came to a sudden end in the Glorious Revolution of September 18, 1868. Promises were now made by the revolutionaries, some of whom were abolitionists, to bring political reforms to the Antilles and to consider some gradual measure for the solution of the slave problem.⁷

³ See for example Rafael María de Labra's, *La abolición de la esclavitud en el orden económico* (Madrid, 1873), and *La abolición de la esclavitud en las Antillas españolas* (Madrid, 1869).

⁴ See the debates in the *Diario de las Cortes, Congreso 1865-66*, Tomo IV. Hereafter references to the *Diario* will appear as *Congreso* or *Senado*.

⁵ A nearly complete account of the Reform Commission is given in *Información: reformas de Cuba y Puerto Rico* (2 vols., New York, 1867).

⁶ Angel Acosta Quintero, *José J. Acosta y su tiempo* (San Juan, 1899), pp. 197-98.

⁷ Gabriel Rodríguez, *La idea y el movimiento antiesclavista en España durante el siglo XIX*, in *La España del siglo XIX*, III, 321. Also *Circular ... a los Gobernadores Superiores Civiles de Cuba, Puerto Rico y Filipinas*, Madrid, October 27, 1868, Archivo

We shall never know whether the Provisional Government of the revolutionaries would have kept their word in this respect. On October 10, 1868, a republic was declared in Cuba, and a bloody ten year's war was launched.⁸ The rebel government headed by the planter Carlos Manuel de Céspedes was confined to eastern Cuba. The rebels abolished slavery in theory, but by and large preserved it in practice for the duration of the war, above all because they did not wish to alienate the sympathies of the rich criollo planters of western Cuba who remained loyal to Spain.⁹ But the rebel emancipationist declarations, which were calculated to attract the help and sympathy of foreign powers, exerted further abolitionist pressure on the Spanish government. At the same time the revolt itself served to obstruct any abolitionist measure on the part of Spain, so great was the reaction in the Cortes to any reform program undertaken during the rebellion.

At this point the threat of American intervention bulked large, for the war was causing atrocities to American citizens and depredations on their property. At first, American diplomacy expressed an ostensibly humanitarian interest in ending the conflict through Spanish cession of the island to the Cubans.¹⁰ Since Spain was opposed to this, the United States insisted that Spain end the rebellion by a liberal reform program, to include an abolition measure. Behind this diplomacy was the latent threat to recognize the belligerent rights of the Cuban rebels, and the implication that the Grant Administration might have to intervene openly in the struggle.

Spain was thus, to employ an old Spanish proverb, "forced between the sword and the wall." She could not end the rebellion and she could not risk American intervention. She had two possible alternatives: conciliate the American government, or win European allies against it.

Under the circumstances it was vital that Spain conciliate the British government, whose diplomats, though they had never ceased to work toward abolition in Cuba, were vitally interested in seeing that Spain retain Cuba. The new colonial minister, Segismundo Moret, warned the governor of Cuba (May 8, 1870): "Not another day must pass without our doing something about this. France and England will not help us while we are slaveholders and this one word

Histórico Nacional, Ultramar, Leg. 4933, Tomo I. Hereafter the abbreviation A. H. N. will refer to the Archivo Histórico Nacional, and the abbreviation A. M. A. E. to the Archivo del Ministerio de Asuntos Exteriores.

⁸ See Ramiro Guerra y Sánchez, *La Guerra de Diez Años. 1868-1878*. (2 vols., La Habana, 1950).

⁹ See *Ibid.*, I, Libro I, Chap. III.

¹⁰ See Allan Nevins, *Hamilton Fish. The Inner Story of the Grant Administration* (New York, 1936), and Jerónimo Becker y González, *La historia de las relaciones exteriores de España durante el siglo XIX* (3 vols., Madrid, 1924), vol. III.

[slavery] gives North America the right to hold a suspended threat over our heads."¹¹ In a nutshell this was Spain's precarious situation on the eve of what would be known as the Moret Law.

Moret was a member of the Spanish Abolitionist Society, but as a realist he knew that abolitionist sentiment in Spain was not strong enough to force a complete emancipation upon the reactionaries, and that in any case, poor Spain would not have financed a large scale indemnity. Yet here was a situation that demanded some conciliatory measure of abolition if Spain were to remove every pretext of intervention and thereby safeguard her hold on Cuba. Moret also knew that the conservative proposal of *vientre libre* whereby slaves henceforth born in the Antilles should be free, was inadequate.

With the government firmly behind him, Moret set about laying the foundations for his famous and much disputed law which, with some minor modifications, was finally approved by the Cortes on July 4, 1870. The most important article of the Moret Law, known as the *vientre libre*, provided for the liberty of all slaves born on that date or thereafter "so that now no more slaves are born on Spanish soil." The second most important provision conceded liberty to all slaves aged 65 or more (later amended to 60). Other important provisions declared the liberty of all slaves confiscated from slave ships, the liberty of all slaves who had served under the Spanish flag in the "present Cuban insurrection" and the freedom of slaves not legally included in the census registrations of Puerto Rico and Cuba.¹²

All in all, this was a markedly conservative gesture of abolition. Even the *vientre libre* was hemmed in by serious qualifications. The free-born Negro was subject to a system of tutelage (*patronato*) until the age of 18. The master, now called a *patrón*, was obliged to care for the young Negroes (*patrocinados*); but he had also the privilege of utilizing their labor without pay until they had reached the age of 18. At that age, the Negro youth was entitled to "half the wages of a free man" until he obtained full civil rights at the age of 22.¹³

The Provisional Government which presented the law to the Cortes on May 28, 1870, attempted to ease the measure through by claiming that all sections of opinion including the slaveholders of Cuba were in favor of the Preparatory Law of Abolition. Meanwhile Moret

¹¹ Ministro de Ultramar al Gobernador General, May 8, 1870, A. H. N. Ultramar, Leg. 4881 1870-72, Tomo I.

¹² In regard to indemnification, the government was authorized to impose a tax upon slaveholders for every slave in his possession between the ages of 11 and 60 years. It is obvious that this provision was intended to hasten the voluntary emancipation of slaves by their taxpaying owners. Proyecto de ley... 28 de mayo de 1870, Congreso 1869-70, Tomo XIII, Apéndice primero al No. 292.

¹³ *Ibid.*

was outspoken about the urgent need to present the abolition law before the critical eyes of the world:

The Government [he bluntly told the deputies] has chosen this moment to present the law because it was the last opportunity. Think, gentlemen, that our enemies [the Cuban rebels], familiar with North American customs and language, in contact with their statesmen, have been able from the first moment to give the insurrection a special character, presenting it as the flag of liberty against the flag of tyranny, as the principle of colonial autonomy against the principle of oppression by the Metropolis, as the principle of independence against the pretensions of Europe.¹⁴

These words were not only a tribute to rebel propaganda but also a frank confession of the real fear moving the Spanish government: the possibility of United States intervention.

Again we might ask, if what the colonial minister said were true, that the Preparatory Law represented the only solution of a crisis, why did Spain later fail so miserably to apply the law, and thus undo whatever good that might have resulted from an abolitionist gesture? The answer draws our attention to events in Cuba.

When the slaveholders heard that the provisional Government was preparing an abolition measure, they went in alarm to Captain-General Caballero to ask permission to assemble and study the social question, as it was euphemistically called, and to prepare a new census of slaves. Caballero, in telegraphing this request to Moret (March 27, 1870), expressed misgivings that the rebels might somehow exploit the anxiety of the western proprietors.¹⁵ In answering, Moret left the decision to Caballero, and, incidentally, asked the latter how the abolition proposals had been received in Havana. The governor replied on June 11, 1870, that the disturbed proprietors wanted to know the full extent of the projected law, and that not all the proprietors had welcomed the *vientre libre*. Earlier in their junta a majority of proprietors had expressed their approval of this principle but could not agree on any other provisions, for example, the freedom of slaves of 60 years of age or more. "The majority are for gaining time," said Caballero "hoping that the delay will profit them."¹⁶ These words are the key to understanding the ineffective application of the Moret Law in Cuba.

The proprietors, merchants and notables of the island naturally

¹⁴ Congreso, Tomo XIII (June 9, 1870), 8768.

¹⁵ Caballero de Rodas al Ministro de Ultramar, June 11, 1870, *Revista política*, A. H. N. Ultramar, Leg. 4881, 1870-72, Tomo I.

¹⁶ Caballero de Rodas al Ministro de Ultramar, June 11, 1870, *ibid.*, Tomo I.

wanted to discuss the Moret proposals. They did not yet know that the Madrid government had already decided to push them through. On Caballero's advice, the government decided to explain the provisions to a junta of the leading proprietors and merchants. The first meeting was held on June 17, 1870, under the presidency of the governor. Don Pedro Sotolongo, favorable to the government side, was elected secretary. The slave interests soon discovered that they had been called not to participate in the shaping of an abolitionist measure but to approve a *fait accompli*.

In facing the delicate matter of submitting the projected law to the proprietors, Caballero gave several reasons why they were expected to assent: (1) that slavery was found exclusively in the island of Cuba, and that this placed the nation in an unfavorable light in its relations with other nations; (2) that it was one of the causes prolonging the war because the insurrectionists had obtained the sympathy and help of abolitionist opinion in the United States by spreading the idea that the Spaniards wanted to preserve slavery perpetually; (3) that apart from these two reasons—the government had in the treaties with Great Britain contracted a promise to resolve the problem.

Caballero himself believed that the Moret measures would be the last blow to the rebellion, and would strengthen commercial relations with the United States. Since the United States was the greatest market for Cuban products, this type of appeal was no doubt calculated to produce a strong effect on the proprietors. But it proved difficult to conciliate slaveowners who previously had scarcely been consulted by the government. Moret now sent an assurance that although the government had abolished certain aspects of slavery, such as servitude of the newborn and the aged, the government would not take another step without Cuban deputies being presented in the Cortes.

Few members of the Junta expressed opinions in full accord with the government. Sr. Juan Poey and several other hacendados approved of freedom for the newborn and the aged slaves but with proper indemnification. Sr. Manuel Cardenal thought the government had acted too hastily. Sr. Julián Zulueta, the richest slaveholder, said the reform was dangerous while the enemies of Spain still bore arms. Sr. José Argudin, who had presented a very conservative plan of abolition in 1866, rose to speak in favor of leaving abolition not to the abolitionists nor to the government but to the owners themselves. He bitterly attacked the abolitionists "who have no money for indemnifying the owners. . . no respect for the rights of property; they don't see that slaves know nothing of political rights." Several proprietors

supported Argudin's proposal that a committee be sent to Madrid to work against the adoption of the measure.

It was the same Argudin who asked for political and economic reforms for the island. The criollo proprietors still believed it possible to separate these demands from the slave question. "If attention is not given to the necessity for these reforms," said Argudin, "the independence of Cuba will be inevitable. Independence will come suddenly and the Island will not be prepared to govern itself; it will therefore sink into anarchy as have the other independent nations of Latin America."¹⁷

The pugnacious mood of the Junta forced the governor to make some rather spurious explanations. In the second meeting (July 1, 1870), Caballero claimed that the government did not have time to hear the hacendados because of extraordinary circumstances. The government had not taken the initiative but was obliged to do so by members of the Cortes. Nor did the government have the power to prevent the initiative of the deputies.¹⁸

The third session, July 11, 1870, was a further effort by the secretary Sotolongo, to justify the government's decision. He gave a long speech describing the project as the wisest of measures and tried to comfort the doubtful hacendados with further assurances. The speech is noteworthy in that it attempted to characterize the Spanish solution to slavery, and, with some truth, pointed out its advantages over those forms adopted by Britain and the United States. With this law, said Sotolongo, Spain would conserve the principle of *potestad dominica* broken by the English and the Americans. That is why liberated slaves in English colonies had not advanced in civilization under the tutelage of their masters, and in the United States, where the principle was broken suddenly, the result was a disastrous civil war. "Here in this island under the tutelage system the Negroes are going to assimilate themselves to the culture and civilization of Spain."¹⁹

The outcome of these meetings was that it was unanimously resolved, first, that a new census should be taken, and second, that a committee should be named to inform the Madrid government about the opinions and proposals of the hacendados, merchants and notables of Cuba concerning the *cuestión social*. A committee of seven slaveholders was, therefore, chosen to perform the preliminary tasks.²⁰

The supreme government at first approved of the new census,

¹⁷ *Ibid.*, July 1, 1870.

¹⁸ *Remite el acta de la Junta de hacendados, propietarios y comerciantes para tratar de la cuestión social*. . . June 17, 1780, *ibid.*, No. 3.

¹⁹ *Ibid.*, July 11, 1870.

²⁰ Julián D. Zulueta, President, assisted by Manuel Cardenal, El Marqués de Alameda, José Morales, Antonio Rizo, Segundo Reigal, and Juan A. Colomé.

feeling it necessary to the adequate and just application of the Moret project since the census of 1867 was not accepted as accurate. The decision to take a new census in a war-torn society could only prove unwise. It was to have been completed in December, 1870, but numerous problems arose which aided the delaying tactics of the proprietors.

Caballero performed his duty in attempting to gain the approval of the proprietors for the Moret Law, but, in fact, his heart had not been in the matter. He became increasingly sympathetic to the cause of the proprietors, either because he felt that they had not been justly consulted, or because he was afraid to be the instrument for carrying out a law that was bound to be unpopular.

On his own initiative, Caballero took an extraordinary step and suspended the publication of the Moret Law, which in the meantime had been approved by the Cortes. The governor justified his action to Moret on the grounds that the publication of the Law without the regulations for putting it into effect would have been dangerous, because the slave interests would give the Law alarming and exaggerated interpretations. The Law was therefore to be suspended until the regulations could be decided upon.²¹

Apparently, in suspending the Law, Caballero wanted to delay its application until the slaveholders could be heard. In a sense, Moret was to blame for this delay since he had falsely said, on presenting the Law, that it had the previous consent of the proprietors. But Moret, after listening to further explanations from Caballero, including the repetitions argument that nothing could be done until the new census was taken, gave an emphatic answer via telegraph on September 19, 1870:

Suspension of emancipation law is most serious. Minister lacks faculties for approving it. Publish it . . . with enclosed regulations [a provisional regulation] or in the manner you think best. International situation the same.²²

Moret was under powerful international pressure. He was acutely aware of the need to make a good impression on international abolitionists, especially since the Moret Law itself was so unsatisfactory to them. Many governments of the Western World had accepted the Moret Law, but only with the Spanish assurances that it would soon go into effect. Great Britain, the United States, Liberia, Costa Rica,

²¹ Letters by foreign governments acknowledging the Moret Law are found in A. H. N. Ultramar, Leg. 4882, 1869-80, Tomos 3 y 4, E. 16-70, N. 22.

²² Caballero, La Habana, August 24, 1870, *Ibid.*, Tomo 1.

Haiti and others sent official letters of congratulation to the Spanish government. The British government, which had worked so long for such a measure formally, expressed its satisfaction on August, 1870, although the measure by no means satisfied the swollen ranks of English abolitionists. Lord Clarendon was deluged by protests demanding that Spain declare, once and for all, the complete and absolute freedom of all slaves in the Spanish Antilles.²³

The English abolitionists through long experience had come to doubt the pledged word of transitory Spanish governments. Lord Clarendon, however, defended the good intentions of the Spanish ministers. With the United States hovering over Cuba, he could hardly do otherwise. We witness a strange bit of irony when Colonial Minister Moret expresses the thanks of the Spanish Government to Her Britannic Majesty for Clarendon's "worthy and dignified defense" of Spain's good intentions.²⁴

The abolitionist societies of England, leaving no stone unturned, did not fail to send their protest directly to Captain General Caballero emphasizing the insufficiency of the law and demanding respectfully that, imperfect as it was, it receive a better fate than previous measures made in behalf of the slaves. Concerned, as the captains-general now were, with the forces of abolitionist opinion, Caballero reported to Madrid that he had shown to the Junta of Hacendados of Cuba the complaint of the abolitionists, believing that this would add zeal to their labors in behalf of accepting and putting into effect the Moret Law. It is hard to say in what way this strategy was effective. For his own part Caballero promised to do all he could to live up to the benevolent defense made by Lord Clarendon of Spain's good intention before the abolitionists.²⁵

The real danger to Spain was, of course, the American government, which for several reasons was not disposed to accept Spanish diplomatic explanations. Ambassador Sickles was impatient to protest against the deficiencies of the Moret Law, and in this he had the backing of American public opinion.

Spanish sources reported with alarm that many influential Americans thought the Moret Law insufficient; that Mr. Sumner, chairman of the Committee of Foreign Relations, who until now had defended the interest of Spain, did not agree with the president's acceptance of the law, and had proposed resolutions in Congress much more radical than those of Representative Banks, a notorious enemy of Spain. The American press also expressed dissatisfaction. Cuban exiles af-

²³ Moret, Madrid, Telegram, September 19, 1870, *Ibid.*

²⁴ Ministro de Ultramar, Madrid, August 12, 1870, *ibid.*, N. 22.

²⁵ Caballero de Rodas, Havana, September 12, 1870, *ibid.*

filiated with the rebel cause of Céspedes were roundly pleased with the measure. In their meetings, newspapers and proclamations they claimed that the Moret Law was one more proof that Spain continued to sustain slavery in Cuba.²⁶ By such expressions, they hoped to excite the passion of the North Americans so that President Grant would yet be forced to intervene in Cuba, or to declare a state of belligerency in favor of the rebels. Moved by this information, Moret wrote to Caballero in Cuba: "I hope that public opinion in the United States which today is not very favorable to the law will be rectified shortly in the same manner as that of their Government [referring to Hamilton Fish and Grant]."²⁷

Of course, the Spanish government foresaw that the American government would be dissatisfied with the *Ley Moret*, but as far as the former was concerned this was all that could be done given the circumstances of rebellion in Cuba, and the fear of alienating the sympathies of the Spanish Volunteers and the wealthy loyalist class. To stave off American criticism, Spanish diplomatic instructions called the attention of the American cabinet to the history of similar reform in Brazil, where many delays had been encountered, "and no one can justly formulate a charge against the Government of Spain because it had not instantly realized this reform in the midst of the circumstances in which the greater Spanish Antilles is now found."²⁸

Furthermore, Moret gave new emphasis to the threefold strategy hitherto employed against the threat of intervention. Apart from the abolitionist promise of the Moret Law, Spain reiterated promises to settle all American claims in Cuba, and again published in American papers the Spanish resolution to pacify Cuba no matter what the cost.²⁹

Still Caballero, with that extraordinary autonomy enjoyed by the captains-general, delayed, offering more excuses. He had not yet given effective liberty to newborn slaves or to slaves aged 60 or more. Moret replied angrily, on the 28th of September: "Your delay in publishing the Law is without justification. The declaration of liberty for the newborn does not require the previous drawing up of the slave-census, nor does it absolutely require regulations." Moret went on to say that every delay in publishing the law showed public opinion that the Span-

²⁶ Comunicaciones... July 15, 1870. A. H. N. Ultramar, Leg. 4880, 1870-72; Tomo 1.

²⁷ Segismundo Moret, Madrid, August 13, 1870, *ibid.*

²⁸ Ministro de Estado al Ministro Español en Washington, López Roberts, August 1870, suelta, A. M. A. E., Leg. 1473, 1870-72.

²⁹ Segismundo Moret al Ministro español en Washington, August 6, 1870, *ibid.* By February, 1871, after difficult negotiations, an arbitration agreement was signed by Spain and the United States. The agreement promised to settle all claims since October 1, 1868. For details, see Becker y González, *op. cit.*, III.

ish government had not fulfilled its solemn promise, repeated many times, that no more slaves would be born in the Antilles.³⁰

Caballero now had no alternative. The same day, September 28, he ordered the Law published in the *Official Gazette* in Havana, and sent copies to all the lieutenant-governors of the island. Replying to Moret at the same time, Caballero, a true military type, said that the people had received the Law in the "best possible order." By November 6, Caballero claimed that the Law was taking effect in regard to the newborn and the aged. But still trying to postpone matters in behalf of the hacendados, he asked for a delay in the complete application of the regulations until the new census had been completed.³¹

Moret by now realized that the difficulties in taking a new census would hold up indefinitely the application of the Law. Therefore, Moret ordered Caballero to abandon the new census and to reform the census of 1867. It seemed the most that could be done under the circumstances. Caballero ordered the reforming of the old census, and thereupon resigned. His resignation was accepted immediately.³²

On the installation of the new governor-general, the Count of Valmaseda, Moret sent him firm instructions, November 27, 1870, for putting into effect the abolition law without delay or vacillation. Any delays

would present the greatest difficulty to Spanish policy. . . [Foreign] governments are disposed to believe the many charges made by the insurrection against the Spanish government that it sustains slavery in Cuba.

The one thought of the government on this subject, "is to remove this stain from our society."³³

And yet, in spite of these explicit instructions, in spite of mounting foreign pressures, the Moret Law was no better applied by Valmaseda than it had been by Caballero. A great part of the trouble was due to that recurrent problem: the census. While the rest of the world wondered what motives Spain had in delaying the application of the Moret Law, the simple explanation was that the Cuban authorities were largely enmeshed in the census problem. Since several categories of slaves depended for their freedom on an accurate census, many hacendados did what they could do to confuse and falsify accounts.

³⁰ Moret, Madrid (Sept. 28, 1870), A. H. N. Ultramar, Leg. 4881, 1870-72, T. I, N. 36.

³¹ *Gaceta de La Habana* (Sept. 28, 1870), *ibid.*, n. 131.

³² *Comunicaciones* (Nov. 6, 1870), *ibid.*, n. 46.

³³ Instrucciones al Conde de Valmaseda, Madrid, November 26, 1870, *ibid.*, Tomo I.

As we have seen, Moret, in the end, ordered the reformation of the census of 1867, but since the census of 1867 was inaccurate, all subsequent attempts to emancipate slaves gave rise to the most frustrating problems. Repeatedly the Spanish government decreed the liberty of slaves not included in the census of 1867. But in almost every case, the proprietors made common cause, insisting that such decrees be suspended until a more accurate census was made.

Not all the inaccuracies of the census of 1867, and subsequent revisions, were the fault of the slave-owners. Some of them had just claims as to the legal origins of their slaves. The Cuban authorities, unable to distinguish between the just and the unjust, threw up their hands in despair, and suspended a series of decrees designed to effect the liberation of unregistered slaves. Therefore, a number of illegally acquired slaves, variously estimated at between 40,000 and 80,000, remained for several years more in a state of bondage.

The Abolitionist Society fought obstinately for the liberation of this class of slaves, and British diplomacy did the same. In the face of this pressure, the administrators of the laws of 1867 and 1870 found themselves in an impossible situation: they could not afford to provoke the abolitionists by refusing to liberate illegally acquired slaves, but at the same time they could not proceed to do so on the basis of an inaccurate census, thereby provoking the slaveholding class.³⁴ The result was that, in spite of the good intentions of the Spanish government, it appeared to the abolitionists and to foreign observers that Spain had slipped back to her procrastinating habits in the matter of abolition and that she was by her lethargy actually protecting slave interests.

Yet further proof that, contrary to appearances, the provisional government was doing its feeble best to enforce the emancipation measures of 1867 and 1870 is the fact that several times the Council of State reviewed the claims of the slave owners for a suspension of those articles concerning the liberation of illegally acquired slaves, and then usually decided in favor of the slaves in question. But it was one thing to order their liberty from Madrid, and another to enforce it in Havana.

The longer the application of the law was delayed, the better for the hacendados, of course. The situation gave strength to their argument that they must be consulted before the regulations could be put

³⁴ The governor general of Cuba on June 13, 1878, requested that Article 71 of the regulations of the census of 1867 be suspended. Owing to a labor shortage, made worse by an epidemic of cholera, emancipation at this time, said the governor, would have caused the most "extraordinary alarm." *Empadronamiento y registro de esclavos, opinión del Consejo de Estado*, February 13, 1869, A. H. N. Ultramar, Leg. 4882, 1869-80, Tomos III y IV.

into effect. After all, the Moret Law could be no more effective than the regulations; in fact, the hacendados planned to amend the Moret Law by making the regulations to suit themselves. This was their grand strategy.

The Madrid government finally acceded to the wishes of the hacendados, and decided to permit the latter to formulate the regulations for the Moret Law. But Moret wisely insisted that the regulations be formed on certain bases provided by the government.³⁵ The formulation of the regulations added to the delays. Meanwhile slaveholders like the Marquess of San Miguel and Sr. Colomé offered their own set of regulations which varied in the extent of their concern for the established interests of property.

Exciting political events in Spain, meanwhile, had served to distract the government's attention from the colonial problem. On December 30, 1870, the great General Juan Prim was assassinated. As head of the provisional government he had been a decisive influence in selecting don Amadeo de Savoy constitutional monarch of Spain. Political parties in Spain had divided sharply on the question of a constitutional monarchy presided over by a foreign prince, and each prepared for a test of strength. The republican group naturally were not satisfied with a constitutional monarchy; the old monarchists wanted the restoration of the Bourbons; and the defenders of constitutional monarchy were not at all certain that the *italiano* had been the best choice. In this atmosphere of bickering, no one Spanish ministry was capable of giving adequate attention to the Cuban problem, nor strong enough to control the unruly Spanish Volunteers in Cuba who opposed even the rumor of reform.

Had Prim lived could he have found the solution to the Cuban problem? He was by far the ablest leader to emerge from the Glorious Revolution of 1868, and, aside from Cánovas del Castillo, who was also to be assassinated at a critical moment in Cuban affairs, Prim was the only realist among Spanish statesmen. To his last days he wanted to rid the skinny neck of Spain of the Cuban millstone. A month before his violent end the general sent Juan Clemente Zenea, the Cuban poet and rebel, as intermediary to Cuba to negotiate with insurgent leaders. Zenea carried a safe-conduct from Roberts, Spanish minister in Washington. But upon Prim's death Valmaseda threw Zenea into prison and several months later, to the consummate pleasure of the Volunteers, had Zenea shot.³⁶

Some have said that the government of Amadeo, with Prim direct-

³⁵ Caballero de Rodas, *La Habana*, November 25, 1870, A. H. N. Ultramar Leg. 4881, 1870-72, Tomo I, N. 46.

³⁶ Nevins, *op. cit.*, pp. 617-18.

ing it along a constitutional path, would have been able to maneuver the sale of Cuba through the inflammable Cortes. But such a possibility, in view of the facts of the situation, would have been extremely remote. Prosperous slave interests in the western province of Cuba, privileged mercantile groups, the colonial bureaucracy, military officials fattening on the war, and above all, the blind pride of a declining empire, would have combined to preclude any merciful solution to the tragic war. Several months of 1871 went by and no action was taken toward applying the Moret Law. The indignation of the English abolitionists mounted; committee after committee called upon Lord Granville for action; embarrassing questions were asked in Parliament. The Granville government, seemingly, stood pat, but secretly, as early as April, 1871, the British ambassador in Madrid began presenting a series of notes to the Spanish government concerning the fulfillment of promises "publicly made." Nothing would please Great Britain more "than the certainty that the Spanish Government would fulfill its obligation soon." No better proof could be given of Spain's good intentions, stated a note in April, 1871, than Spain's declaring the complete and unconditional liberty of the *emancipados*, and, secondly, the passing of a law abolishing slavery in Puerto Rico "where the relatively small number of slaves would make its application relatively easy."³⁷ British abolitionist policy thus began to resume its old course.

But the threat of British abolitionism was one of Spain's minor worries. The British government, in spite of complaints, supported Spanish dominion in Cuba. The real threat lay in the direction of the New World. The war in Cuba continued in a kind of gruesome stalemate. The rebel guerrilleros, the Spanish regulars and the Volunteers continued to commit atrocities and violate the lives and property of innocent people, but neither side won decisive battles. Under these degenerating conditions, American intervention was always an immediate possibility. American warships patrolled ominously near Cuba protecting American shipping from Spanish seizure. It would have taken little more than an incident to generate an international war. The Spanish government, aware of this, continued to make jittery announcements that the insurrection was finished. Sickles said of the new governor: "Valmaseda out-telegraphs De Roda. The latter put down the insurrection every month *morally*, the former demolishes it every night materially. Yet it still lives and will not die."³⁸

Remonstrances continued to reach the Spanish government from American societies, especially from the Quakers. On behalf of the

³⁷ *Ibid.*, p. 616.

³⁸ *Ibid.*

yearly meeting of Friends of New England, Philadelphia, Baltimore, North Carolina, Indiana, the Western Committee, and the Freedman's Committee of New York and Iowa, the Quakers (May, 1872) informed the Spanish authorities that "for two centuries we have been conscientiously against the slave traffic and holding them in bondage." Abolition in the United States, although sudden, had caused no convulsions, and there was promise of unprecedented prosperity. One of the largest cotton crops was expected, and former slaves had progressed in education. "The pressure of civilized opinion is heavy against it [slavery] as one of the relics of the dark ages, and we trust the time is near at hand, when through the prudence of the spirit of Christ, there will not be a single slave in Christendom."³⁹

These petitions naturally struck the Spaniards as full of fatuous selfrighteousness and occasioned much grumbling among the ministers. Nevertheless, the Spanish government felt obliged to answer them individually, protesting that the Spanish people were of the same sentiments, and that at the opportune moment the government would complete the abolition of slavery.

As yet Spain still felt that she could ignore American pressure so long as the power of England stood tacitly behind her. As if in direct response to increased American pressure the British government once more began to accept Spanish explanations concerning the failure to apply the Moret Law. The Spanish minister of state reported on December 9, 1871, the result of a conference with Layard, the British ambassador:⁴⁰ "the conference was extremely friendly and my frank explanations left him satisfied".

While extending one hand in sympathy to the distraught Spanish government, the British employed the other to stay the abolitionists. Thus, the secretary of the British Anti-Slavery Society was politely but firmly dealt with when he read a memorial to Lord Granville calling attention to the fact that the American government had instructed Minister Sickles in Madrid to make slavery a *sine qua non* in the settlement of the Cuban question. This fact, plus the news that the Spanish abolitionists in Madrid were urging complete abolition in the name of the Revolution of 1868, should have been decisive, according to the memorial, in making Ambassador Layard in Madrid take a more decided course. The usual collection of unfilled promises was then listed. Lord Granville listened patiently, concurring in many of the statements made. "But the English government was desirous of exerting its in-

³⁹ *Exposiciones abolicionistas*. . . A. H. N. Ultramar, Leg. 4882, 1869-80, Tomo IV.

⁴⁰ Ministro de Estado al Ministro Español en Londres, December 9, 1871, A. M. A. E. *Correspondencia EE. Unidos*, Leg. 1473, 1870-72.

fluence on a suitable occasion. . . For the moment, such a delicate question should be put aside."⁴¹

One of the most newsworthy items of the year was the return of general Daniel Sickles to the United States to confer with the president. On December 23, 1871, Sickles arrived at the harbor of New York, appropriately enough aboard the *Cuba*. He was met by reporters who hoped that Sickles could throw some light on the situation.

Sickles answered the reporter for *The New York Times* that his return signified nothing in particular.

The frequent changes in the ministry at Madrid . . . eight since my official residence at that court, combined with unsettled conditions, the establishment of a new dynasty, and the introduction of a new constitution have delayed the inauguration of a new and better colonial policy to which the liberal party in Spain is committed by repeated pledges made to the United States through official channels. The truth is that with the best intention on the part of the enlightened statesmen of the Revolution, their tenure of power has been so brief that unsupported as they have been by a working majority in the Spanish Congress, owing to the multitude of fractions into which that body is divided, that very little has been done in the way of national or colonial legislation, for example, for the past three years no appropriation bill has passed the Cortes.⁴²

Even more important perhaps as an obstacle to reform in Cuba was the intransigent attitude of the Volunteers who associated all reforms with the cause of the rebels. "It is, perhaps, doubtful, whether as things are in Cuba, any radical measure of colonial reform could be carried out through the Spanish authorities in the Island without provoking a more serious rebellion [among the Volunteers] in Havana than was begun at Yara in October 1868".⁴³ To the question, "Was the war popular in Spain?", Sickles answered, "Oh, yes, 50,000 regular Spanish troops [not counting Volunteers] is proof, and so is the sustaining of 10,000 to 15,000 casualties a year."⁴⁴

The promised reforms, the general indicated to the *New York Tribune*, would be better fulfilled if the Liberal Party, represented by men such as Zorrilla, Rivero and Martos, should come to power. With the new liberal Cortes soon to be elected, he thought the time would be most favorable for "permanently adjusting vexatious relations." This Liberal Party desired to adopt a colonial policy in ac-

⁴¹ *The London Times*, January 24, 1872, A. H. N. Ultramar Leg. 4882, 1869-80.

⁴² *The New York Times*, December 23, 1871, A. M. A. E. *Correspondencia EE Unidos*, Leg. 1473, 1870-72, Despacho N. 163.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

cordance with the views of the American government.⁴⁵ But while the Sagasta Ministry remained in power, Sickles could do nothing toward influencing colonial policy. In fact, Sagasta was determined to have Sickles recalled. He was tired of Sickles' meddlesome activities, his incautious remarks and his open friendship with Republicans like Martos and Castelar. Sickles was determined to help establish a republic in Spain. Secretary of State Fish decided that an American minister was not doing any good in Madrid anyway, and so when Sickles set sail for Spain, April 27, 1872, after an extended stay in the United States, he was instructed to present a letter of recall.⁴⁶ But before diplomatic relations were broken off the kaleidoscopic political scene in Madrid changed again.

In June, 1872, the Progressive ministry of Sagasta, which had offered stiff resistance to American policy, fell from power and the Radical Party of Ruiz Zorrilla now took charge. The Radicals, or the left wing of the Progressive movement formerly dominated by General Juan Prim, leaned more strongly toward a republic. Now it remained to be seen whether Zorrilla would prove any more liberal than Sagasta in colonial affairs.

Ambassador Sickles' faith that his radical friends would at least enforce the Moret Law was soon justified. The regulations for putting it into effect were approved by the Radical government in August 1872. Sickles, of course, was delighted.⁴⁷

After the usual delay, the regulations were published in Cuba on November 23, 1872, more than three months after they had been published in Madrid, and nearly two and a half years after the acceptance of the Law by the Cortes. The most important of the regulations, which essentially expressed what the government wanted, with some modifications in favor of the hacendados, can be summarized as follows:⁴⁸ In accordance with Article 13, Committees for the Protection of Freedman (*Juntas protectoras de los libertos*) were to be established in each civil district of Cuba. A central committee, serving as court of final appeal, would be seated in Havana. In each civil district, the committee members, six in number, were to represent the colonial government, the local government and the slave-holding and non-slave-holding property interests. Each member was expected to serve a term of two years on a rotation-of-office plan.

Concerning Puerto Rico, it is worthy of note that these same regu-

⁴⁵ *New York Tribune*, December 23, 1871.

⁴⁶ Nevins, *op. cit.*, pp. 620-21.

⁴⁷ Sickles to Gasset, Bagnares del Luchau, Alemania, August 14, 1872, A. H. N. Ultramar, Leg. 4882, 1869-80, Tomo IV.

⁴⁸ *Reglamento para la ejecución en las islas de Puerto Rico y Cuba de la Ley de 4 de julio de 1870*, A. H. N. Ultramar, Leg. 4881, 1870-1872, N. 2, P. 1.

lations were applied more than a year earlier. Since Puerto Rico did not suffer an insurrection, the same delaying tactics were not possible there. The regulations for applying the Moret Law in Puerto Rico were published on June 23, 1870, and put into effect a year later. The pressure of foreign diplomacy can take part credit for forcing Spain to apply the Moret Law in Puerto Rico. But more important, it was the sentiment of the Puerto Rican people themselves that made possible the positive application of the Law. The Spanish government recognized this fact when it said of the smaller island, where slavery had never struck deep economic roots, that "There the proprietors have anticipated abolition. . . . In the question of liberty the slaves owe a lot to their owners, and they should not have to attribute everything to the action of the Government."⁴⁹

It is evident from the correspondence of the colonial minister, Artimé y Gasset, and the captain general, Francisco de Ceballos, that a sincere effort was now being made in Cuba to put the regulations in force as soon as possible. Continually, on demand from Gasset, Ceballos returned detailed reports on progress made. Emphasis was placed on the immediate establishment of the *Juntas jurisdiccionales de libertos* provided for in Article I of the Regulations. Ceballos listed the obstacles that had to be overcome: the isolation of certain districts, the lack of communications, and the confusion resulting from the war.

These obstacles were irritating, but being firm in his intention to establish committees, Captain-General Ceballos named eleven Jurisdictional Committees for Freedmen: these, together with the sixteen already established and six more to be established soon, made a total of thirty-three. The United States, wrote Ceballos in another communication, "has no faith in our fulfilling the laws."⁵⁰ The governor supplied such data to the Minister of Colonies, because it would provide proof to the Americans that the Law was being applied.

The immediate and efficient application of the Moret Law might have served to conciliate the American government, which held so many complaints against the Spanish colonial regime in Cuba; but Spain had definitely lost that opportunity and the Moret Law had thus proved an empty gesture. Relations continued as strained as before, with Secretary of State Fish still pressing for some further concession from Spain in order to stay the interventionists, yet the Zorrilla ministry dared not take another abolitionist step in Cuba.

⁴⁹ Comunicación, Ministerio de Estado, January 12, 1871, A. H. N. Ultramar, Leg. 4882, 1868-80, Tomo IV.

⁵⁰ Francisco de Ceballos, La Habana, December 15, 1872, A. H. N. Ultramar, Leg. 4881, 1870-72.

When the British minister Layard told Martos, the foreign minister, on June 24, 1872, that Britain agreed with the Americans that Spain should make a specific declaration regarding a more liberal abolitionist policy for Cuba, Martos, though fully aware of the possibility of war with the United States, could only reply that such a declaration could never be hazarded by any popular government, that it might lead to an insurrection either by the Volunteers or by interests of Spain. Spain could not be a traitor to such interests. It would be better, he implied, to fight the United States, yielding, perhaps, "in the end, to superior forces but we shall have preserved our national dignity."⁵¹

If foreign abolitionism could not hasten the end of slavery in Cuba, it could at least do so in Puerto Rico. Here we would like to suggest that one of the most important consequences of the failure to apply the Moret Law in Cuba was that it made possible the Puerto Rican abolition law of March, 1873.

It is true that the Spanish abolitionist society, led by Labra and prominent Puerto Rican abolitionists who despaired of further emancipation measures in Cuba while the insurrection continued there, had turned all their energies toward the complete abolition of slavery in Puerto Rico. It is also true that the Radicals in seeking allies on the road to political power had promised the Puerto Rican deputies in a manifesto of October 15, 1871, that slavery would be abolished in the smaller island and that the Radical ministry of Zorrilla was now hard pressed to keep its promise.⁵²

But for the reasons already expressed by Martos it is doubtful that Zorrilla would have dared keep his promise had it not been for external pressure. Four years of military failure in Cuba and a miserable effort to apply the Moret Law, which, after all, was only a partial measure of abolition, had forfeited Spain the respect and patience of the United States, and, to a lesser degree, that of England. The re-election of President Grant in 1872 meant that a more positive Cuban policy was expected of the administration. According to don José Polo de Bernabe, who had replaced López Roberts as Spanish minister to Washington on March 12, 1872, the American people expected two things of the re-elected Grant: one, an active policy of aid for the Cuban rebels with the object of helping them gain their independence; and, second, the attempt to push Spain into complete emancipation of the slaves of the Spanish Antilles. It was Bernabe who said: "The ques-

⁵¹ Nevins, *op. cit.*, p. 619.

⁵² This information on the promise of Zorrilla was given by Labra during the debates on the Puerto Rican abolition bill of 1873. *Congreso y Senado*, Tomo único, February 27, 1873, No. 11, p. 269.

tion of slavery is the touchstone of our relations with the United States."⁵³

When Bernabe showed Fish a letter from Captain-General Ceballos proving that partial abolition was being enforced in Cuba in accordance with the Regulation, Fish replied that if the law had been applied immediately after its promulgation it would have produced a good effect, but that now it was too late. Many people doubted the sincere intentions of the Spaniards. Furthermore, Fish was not satisfied with the nature of the Regulation, saying that it "seemed to offer few guarantees to the slave." Thereupon Fish again insisted that Spain take a further step in the direction of emancipation. This would not only favor relations between the two countries, but in his opinion, it would hasten the end of the rebellion.

Bernabe then wrote the home government:

Concerning the step that Mr. Fish thinks should be taken I don't know what the Government of Your Majesty believes opportune at this moment, but all of the foregoing demonstrates... that I am not mistaken when I have the repeated honor of saying to your Excellency that the slave question is a latent danger for the continuation of good relations with the United States.⁵⁴

Nor were others of Bernabe's comments less calculated to impress Madrid concerning the urgent need to conciliate the Americans further, for otherwise the sympathetic Fish, "a person of uncensurable respectability", would be forced to resign. "I clearly see", said Bernabe, "that this would present a crisis for us."⁵⁵

Observations such as these undoubtedly contributed to move the Zorrilla ministry to consider Puerto Rico as a compromise solution. In October Zorrilla announced that the Cabinet had decided on a four-point reform program for Puerto Rico including the definite abolition of slavery. In an interview of November 30, Martos assured Sickles that this reform program would be carried out.⁵⁶ Still the Radical ministry hesitated on the abolition question, afraid to arouse the reactionary watchdogs who would not allow Puerto Rican interests to be considered separately from those of Cuba. In order to force Zorrilla to take the jump, the Grant administration threatened to boycott Cuban sugar interests. An immediate answer was obtained by December 2,

⁵³ Polo de Bernarbe, Washington, November 15, 1872 and October 29, 1872, A. M. A. E. Correspondencia EE. Unidos, Leg. 1473, 1870-72, N. 126 y N. 120.

⁵⁴ Polo de Bernarbe, Washington, October 22, 1872, *ibid.*, N. 128.

⁵⁵ Polo de Bernarbe, Washington, October 29, 1872, *ibid.*, N. 120.

⁵⁶ Herminio Portell Vilá, *Historia de Cuba en sus relaciones con los Estados Unidos y España* (4 vols., La Habana, 1938-41), II, p. 390.

1872; the Zorrilla Government stated that it would send to the Cortes a bill of immediate abolition for Puerto Rico soon after December 15.⁵⁷

There followed a shifting of positions in the cabinet. Tomás Mosquera, a pronounced reformist who had once represented Puerto Rico in the Cortes, emerged as colonial minister. On December 20, Zorrilla made the sensational announcement to the Cortes that the reorganized ministry "will propose immediate abolition in Puerto Rico."⁵⁸ The promise was carried into effect by the Law of March 22, 1873.

The Puerto Rican abolition law was fully carried out, and thereafter the slave question ceased to be the "touchstone" of relations between Spain and the United States. Thus the Puerto Rican law of 1873 served partly as an expiation for the failure to apply the Moret Law of 1870 in Cuba and, thereby, contributed to relieve a tense international situation.

⁵⁷ See Nevin's dramatic account, *op. cit.*, pp. 629-30.

⁵⁸ *Senado*, 1872-73 (December 20, 1872), p. 825.