

(editor's note: This paper was transcribed from a handwritten cursive copy with various difficulties. For a perfect rendition, the reader might wish to consult the original, itself a copy, in the volume entitled *Literary Club Papers*, Dec 20, 1890 to May 30, 1891)

The New Orleans Mob from the Standpoint of American Diplomatic History

On October 15th 1890 David C Hennessy, chief of the New Orleans Police, was shot to death at his own door. Last Saturday, eleven Italians suffered death at the hands of a mob of citizens of New Orleans as an expiation for this crime, after a jury of twelve men had failed to find them guilty upon the evidence offered to them.

The above bold statement of fact affords the excuse for this paper. In a country so prone to obeying the law as is our own, and uprising of citizens of character, for the purpose of executing men charged with crime, after an acquittal by the forms of law, is certainly of sufficient interest to call for an investigation with the causes leading to so extraordinary an occurrence and comment on the consequences likely to grow out of it. In order to make the position of the citizens who took the law into their own hands, clear it is necessary to understand the state of facts as they believed it to exist. I do not desire to criticize the justice of their conclusions of fact but merely to recall what is accepted generally by them as truth.

The Mafia society was originally a political society of Italy which believed that assassination was the best means of disposing of objectionable persons. In the unsettled condition of governments in Italy such a society became terror to the community. The members were bound together by the strictest oaths, which were made more binding by the knowledge that any treachery would result in death by the law of some member of the society who was probably personally unacquainted with his victim.

The executioner was usually selected by lot, from among members living in a different section from the residence of the man marked for execution and death, came upon him up when least expected. Originally the Mafia had nothing to do with private vengeance nor was it carried on for purposes of plunder, being purely political in its nature. It was different too from the Vendetta which was simply a means of gratifying private malice or avenging personal injuries. But naturally in the course of time, a society so irresponsible in its character and so facile of manipulation for private purposes as was the Mafia, became diverted from its original character and what was first an organization of principals, of questionable methods became a mere band [] brigands. The assassinations and outrages became so frequent in Italy and particularly in Sicily that as the government became more firmly established measures were taken to extirpate this curse from the land. All crimes for which no other explanation [at] suggested itself were attributed to the Mafia and the war made against the society relentless that its principal members saw fit to seek the "land of freedom" America, and the seat of its operations was transferred to New Orleans where there was already a very large Italian colony. Sometime after 1875 the Italian government made things so hot for the brigands that they emigrated to New Orleans in large numbers, and there under an old leader Giuseppe Esposito they

organized anew for the purpose of brigandage and became known as the Mafia, although having nothing in common with the old organization of that name other than the methods of assassination.

The organization was also known as the Stiletto society or Stopagherra. That such an organization, so complex and its management and so lawless in its nature should exist in this country seems so improbable, that this seems like a fairytale, but that such is the fact is firmly believed in New Orleans, and was boldly asserted by Hennessy and we must recognize this belief in considering the actions of Parkersen, Wickliffe, and others.

Hennessy suspected that such an organization existed in New Orleans and communicated with the criminal department of the Italian government. He obtained a great mass of information which made it clear that New Orleans had become the refuge for a great number of ex-convict brigands and rascals of all sorts who had fled from Naples, Palermo and other parts of southern Italy. His inquiries in Italy became known through spies, to the desperadoes at home and war was declared between him and the so-called Mafia. The society had no regular meeting place, never meeting twice in the same house, and different members met at different meetings.

Strangers from outside were usually selected to do the work and usually the victim was entirely unknown to them. They worked in gangs of six, and after the man whose life they sought was pointed out to them they took their time about their task. Every thing was carefully planned and they would dog their man until some favorable opportunity presented itself, when on a dark night in some secluded spot, they would surround him and do him to death. They never left a job unfinished and there was no chance for escape. To use the stiletto was abandoned some time since, an ordinary banana knife being substituted. But the weapon most frequently used was a sawed off Musket a shotgun heavily loaded with buckshot. Hennessy was their thirtieth victim but so completely have they covered their tracks that no one of their crimes have been avenged by the law.

Hennessy's first move against the gang was in the capture of Esposito the leader. A price had been set up on his head but by reason of his connection with the Mafia and his influence with the Sicilians generally, no one dared apprehend him. Hennessy at that time a detective, saw him on the street. He grabbed him stuck a pistol against his head and calling a cab took him to the police headquarters where he kept him all night. The excitement among the Sicilians was intense and it was thought that Hennessey would never get him out of the city without rescue. However he was taken to the New York steamer and handed over to the representatives of the Italian government. Two murders resulted from this, the victims being Italians who had informed on Esposito. Both murders were at midnight, but a number of people saw them although no one dared to recognize the assassins. Hennessy is said to have been offered \$50,000 to acknowledge he was mistaken in his man but refused and his death was determined upon. This was in 1881. Macheca one of the victims of last Saturday's mob a man of wealth and very high social standing became the head of the Mafia. Macheca had a bad secret record which Hennessey discovered. They had been friends but Hennessy was determined to wipe out the Mafia and told Macheca so at the same time informing him of his knowledge of the

past.

Hennessy was quietly pursuing his investigations and was slowly weaving the web about the organization until it was determined that the time had come for him to die. The immediate occasion was a quarrel between two rival firms of stevedores, the Matrangas and Provenzanos. Hennessy warned both parties that they must live in peace or he would send them to prison. A short time afterwards the Matrangas were fired upon in the street and two of the party lost their legs. Instead of resorting to the vendetta the usual private vengeance, the Matrangas concluded to swear the crime upon their rivals. The plot worked and the jury convicted the Provenzanos. The story was so manifestly a fraud that the judge granted a new trial which was set for the latter part of October. Hennessy prepared affidavits and other evidence to expose the whole conspiracy and the trial promised to be the death knell of the Mafia.

Despite warnings of his danger the chief to[ok] no extra precautions and on October 13th a few days before the date set for the second trial the vengeance of the Italians came upon him. They had rented a house opposite his residence which being near Police headquarters was in a very bad neighborhood and there awaited his coming.

The boy Marchesi walked about a quarter of a block ahead of him to give the signal that the coast was clear & as he reached his door two double-barreled shotguns emptied into his body. As he fell, he fired four shots from his revolver at his assailants without effect. To a comrade who had just left him, and who attracted by the shots rushed to his assistance, he whispered that the "Dagoes did it." He died the following morning. A number of suspects were immediately arrested and the chain of evidence gained such strength that the citizens were about to meet out summary justice. To allay excitement the mayor appointed a committee of fifty representative citizens to take charge of the investigations and to bring the assassins to justice. After months of preparation and a three weeks trial, the jury, alleged to have been corrupted and terrified brought in a verdict of acquittal as to six (against three of whom the evidence was insufficient to convict) and a mistrial as to three others.

The conviction of the six most prominent prisoners had been taken for granted as the evidence seemed conclusive and this verdict appalled the citizens. At once the feeling prevailed that they "must remedy the failure of justice" and a call for a daylight meeting was issued. The meeting was held in the most prominent square in the city addressed by citizens of high standing & the mob thereupon went to the prison and put to death eleven of the conspirators. The purpose of the meeting accomplished, no violence having been offered to any other prisoners no demonstrations having been made against any particular race or class, the meeting quietly adjourned. A more orderly or restrained mob could not be imagined and as is said by one of the London papers "the Americans love of order & obedience to law as shown by this mob of lynchers has filled the world with astonishment." Such is the story of the New Orleans mob; the events are so recent that they are familiar to all but a recapitulation is necessary to make clear the frame of mind that actuated the mob of last Saturday.

Naturally such an uprising in one of the most populous cities of our country, led by men of prominence and character has caused great excitement throughout the country. The Italian contingent became particularly excited at what they assumed to be a demonstration against their nationality. American citizens of Italian birth all over the country who have foresworn allegiance particularly to the King of Italy, demand "the energetic intervention and protection of the Government of their fatherland." Telegrams from the citizens are at once forwarded to Rome, and the Italian government demands of our own government protection for its citizens and secretary Blaine enters into a correspondence with Governor Mickolls of Louisiana with regard to this infraction of the state law.

The organ of the Italians in New York calls for vengeance and proclaims the vendetta. At a meeting of Italians in New York, the Italian premier is urged to demand reparation and the proceedings are so violent that a riot almost ensues. It would be interesting to consider the result of a riot of Italians in New York. I fear the Italian thirst for blood would soon be gratified to their cost.

All this seems extraordinary. It is natural that all citizens should be shocked at the lawlessness in New Orleans, but it is a discouraging sight to see American citizens still clinging to Italy as their fatherland wildly demanding an appeal to arms against their adopted country. I cannot see how Baron Fava can consent to receive communications from naturalized Italians without committing a breach of the courtesy owed to our government.

But the point that has given rise to the most confusion is the impression that three of the victims of the citizens' wrath were Italian subjects. It is presumed from this that Italy has cause to demand indemnity from our country. Much wild talk has been printed in the papers on this phase of the question and one of the assistants in our State Department is quoted as saying that there is no precedent to guide the department. In this he is in error. There are a number of precedents, one of which concerned another New Orleans riot, and in another case Secretary Blaine gave a very clear statement of the principles of international law involved in the matter.

In the first place it must be remembered, that the crime of the citizens, if crime it be, is one against the laws of the state of Louisiana and is no way cognizable under our national law. The national government has nothing to do with the punishment of offenses against state law, and can only recommend to the state authorities any communications it may receive from foreign powers. Furthermore, the states as separate bodies politic, can have no official communication with a foreign power. To quote from the opinion of the Atty. Gen. delivered November 20, 1821 (/op. 392) "the people of the United States seem to have contemplated the national government as the sole & exclusive organ of intercourse with foreign nations. It ought therefore to be armed with power to satisfy all fair and proper demands which foreign nations may make on our justice and courtesy, or in other words to reciprocate with foreign nations the fulfillment of all the moral obligations perfect and imperfect, which the law of nations devolves on us as a nation. In this respect, our system appears to be crippled and imperfect.

Therefore our national government is in the peculiar position of being responsible for acts that it can not control. Woolsey (international law 39) says – “In a state which is formed by a union of states, there is no doubt that the central government is responsible for the acts of bodies which have no existence, in the view of international law. There is a weak point in our Constitution in this respect, for the responsibility must be borne by the central government, but the evil can not always be abated.”

Another principle of law that is involved in this case is stated by W. E. Hall (international Law p183) “When a government is temporarily unable to control the acts of private persons within its dominions owing to insurrection or civil commotion it is not responsible for injury which may be received by foreign subjects in their person or property in the course of the struggle either through the measures which it may be obliged to take for the recovering of its authority, or through acts done by the part of the population which has broken loose from control. When strangers enter a state they must be prepared for the risks of intestinal war, because the occurrence is one over which from the nature of the case the government can have no control; and they can not demand compensation for losses or injuries received, both because unless it be shown that a state is not reasonably well ordered, it is not bound to do more for foreigners than for its own subjects, and no government compensates its subjects for losses or injuries suffered in the course of civil commotions, and because the highest interests of the state itself are too deeply involved in the avoidance of such commotions to allow the supposition to be entertained that they have been caused by carelessness on its part which would affect it with responsibility toward a foreign state. Ferguson (I International Law§41) states the law thus.

“With reference to an individual who by virtue of the laws of a foreign country has acquired the nationality of domicile” (that is an alien having a legal domicile in this country) “there is no occasion for intervention on the part of his native state for protection or claims against the state of his domiciliation for injuries sustained in body or property through internal commotion or revolution.

However when he can prove that the government under whose protection he has taken his abode, is unable or unwilling to protect him from discrimination directed against him, whether the acts of discrimination are against him personally or directed toward his nationality its government would fail in their (its) duty by not offering him all protection in their (its) power.

”Such are the general principles laid down in all books on International Law on this subject. Our country has had several opportunities of applying these principles to practice. In 1851 certain persons [] were executed at Havana by the Spanish authorities. Receipt of this news in the United States caused great excitement which resulted in riots in New Orleans & Key West. At New Orleans the mob broke into the office of the Spanish consul, destroyed his property and carried off and tore up the Spanish flag. Much damage was done to the property of private individuals among whom were some resident Spaniards. The Spanish government demanded satisfaction both for the insult to its

consul and damage to his property and for damage to property of Spanish citizens resident in New Orleans. The claim as to the consul was conceded by Mr. Webster, at that time Secretary of state, but denied as to the Spanish private citizens.

Under date of November 13, 1851 he writes to Mr. Calderon di la Barca, Spanish minister at Washington, that "the rights of the Spanish Consul, a public officer residing here under the protection of the US Govt., are quite different from those of Spanish subjects who have come into the country to mingle with our own citizens and here to pursue their private business and objects. The former may claim special indemnity, the latter are entitled to such protection as is afforded to our own citizens, and these private individuals coming voluntarily to reside in the United States have certainly no cause of complaint, if they are protected by the same law, and the same administration of law as native born citizens of this country."

In 1875 two Mexican shepherds were murdered in Texas and the Mexican government presented a claim for indemnity to our government. Mr. Fish, Secy of State, writes to Mr. Mariseal February 19, 1875 "I am not aware that any government is answerable in pecuniary damages for the murder of individuals by other individuals within its jurisdiction" He reaffirms the only obligation is to endeavor to see that the murderers are punished, but calls attention to the fact that "it seems obviously unreasonable, in view of the peculiar condition of the quarter where the murder was perpetrated, to expect that it would certainly be punished."

Referring to the state of public sentiment on the border making conviction impossible as is probably the situation in New Orleans today, further correspondence in this case sets up the doctrine that the usual forms of law as to procedure in the regular tribunal must be taken advantage of by foreigners as well as by citizens who have been outraged. In 1880 certain British subjects were injured by a mob in Texas. Secretary Evarts held that as the offense "was against the peace and dignity of Texas" it was cognizable only by the authorities of that state. So far as their legal remedy against the assailants is concerned, the Dows (the parties injured) stand as to their natural and civil rights in precisely the same condition as to recourse to the state tribunals as citizens of that state; and in their capacity of British subjects they can resort also to the courts of the United States at their option for civil redress indemnity."

In October 1880 a riot occurred in Denver in the course of which a number of Chinese residents were made the special object of the hatred and violence of the mob. In response to complaint on the part of the Chinese government Mr. Everts writes on December 30, 1882 Chen Lan Pin, as follows, "As to the arrest and punishment of the guilty persons who composed the mob at Denver, I need only remind you that the powers of direct intervention on the part of this government are limited by the Constitution of the United States. Under the limitations of that instrument the government of the Federal Union cannot interfere in regard to the administration or execution of the municipal laws of a state of the Union, except under circumstances expressly provided for in the Constitution. Such instances are confined to the case of a state whose power is found inadequate to the enforcement of its municipal laws and the maintenance of its sovereign authority; and

even then the Federal authority can only be brought into operation in the particular state in response to a formal request from the proper political authority of the State. It will thus be perceived that as far as the arrest and punishment of the guilty parties may be concerned, it is a matter which, in the present aspect of the case, belongs exclusively to the government and authorities of the state of Colorado.”

“Whatever remedies may be afforded to the citizens of Colorado, or the citizens of the United States from other states in the union resident in Colorado for losses resulting from that occurrence, are equally open to the Chinese residents of Denver who may have suffered from the lawlessness of the mob. That is all that the principles of international law and the uses of national comity demand.”

In 1889 the terrible mob occurred at Rock Springs, Wyoming territory in which 28 Chinamen were killed outright, fifteen wounded and many driven from their homes and property to the value of \$149,000 destroyed and a little later singular occurrences took place at Seattle Washington Territory. On February 18th 1886 Mr. Bayard writes to the Chinese minister, stating “that the conservation of the public peace is committed to the local authorities” and further he says “I am compelled to state most distinctly that I should fail in my duty as representing the well-founded principles upon which rests the relation of this government to its citizens, as well as to those who are not its citizens and yet are permitted to come and go freely within its jurisdiction, did I not deny emphatically all liability to indemnify individuals of whatever race or country, for loss growing out of violations of our public law, and declare with equal emphasis that just and ample opportunity is given to all who suffer wrong and seek reparations through the channels of justice, as conducted by the judicial branch of our government.”

In this case however Congress paid the indemnity demanded “with the understanding that no precedent is created thereby.” The principal established by these opinions seems to be clear. The national government refers a lien claimant to their remedy in the courts of this state so far as the criminal liability of the offender is concerned. Aliens stand upon the same footing as citizens in this regard. This principle is simply an extension of the principle that every man must assume the ordinary risks of the place in which he lives. If there is danger from a domestic uprising that is danger incident to his residence in the foreign city.

It is the duty of the local authorities to protect the lives & property of the residents but “Public corporations are under no common-law liability to pay for the property of individuals destroyed by mobs or riotous assemblages” (2 Dillon Mem Corps§959) Judge Gohlsen states the law as follows, “it is not the policy of governments to indemnify individuals for losses sustained either from the want of proper laws, or from the inadequate enforcement of laws made to secure the property of individuals” (Western College a City of Cleveland 12 Oh St 375). It is true that in many cases money has been appropriated to pay such damages but that is to a certain extent in the nature of a gratuity. Of course however any person damaged can hold the rioters themselves responsible and in the case of murder the machinery of the state court can be set in operation by any private citizen who will make use of the proper procedure.

In view of these well understood principles of law that have always been maintained by our government and recognized by all civilized governments, there can be little point to the excitement about the Italian government interfering in the matter of the occurrences of last Saturday. The authorities of New Orleans were wise enough to see that resistance would be useless, and probably result in much greater bloodshed. No assistance was rendered by the authorities to the mob except to protect other criminals. The Italians were not even identified by the prison officers, as they would have been justified in doing to save the other men confined in the place.

The matter has already been submitted to the Grand Jury which is still in session. American citizens were treated with as quick justice as the alleged subjects of the King of Italy. Such being the case, the statement that Italy will feel called upon to interfere seems without justification. The St. James Gazette, a well-known English Journal, expresses a more reasonable view when it says that "it is curious to find the people of Italy lamenting the death of the Mafia conspirators at New Orleans. They were wretches who had been driven out of their own country as pests of society.

The grief of the [Marznis]of Rudini for the men who were lynched would not be long or very profound. If the Mafia should not have emigrated, they would have received equally short [shrift] from the Sicilian Vigilantes." Such would naturally be the comment of most reasonable people. No one is prepared to advocate or excuse mob law. Regular methods are provided for the punishment of all offenses against the public safety. Any attempt to go beyond these methods and take summary vengeance upon persons accused of crimes is likely to result in an evil greater than the one that is to be cured.

But after all what is the situation in New Orleans. For years justice has been a farce, so far as the administration of the criminal law is concerned. The best citizens firmly believe in the existence in their midst of a secret order of the most infamous character. They believe that this order commits the most atrocious crimes, with impunity. Thirty murders have been charged to it alone, and no man has been punished by law for these crimes. The terror in which the conspirators are held and its great power makes it impossible to get evidence to convict it or if evidence is obtained, the jurors will not convict. It is said that they are bribed or that they are terrorized.

The one man who has made it his life's work to rid the city of this gang of criminals is murdered in cold blood. The evidence against those suspected is convincing to the mind of the public but they are to be allowed to escape. Every safeguard is taken away from society. The public is at the mercy of the cutthroats imported from the prisons of Italy. Such is charged as the facts. What truth is, we do not know. But Parkersen, Wickliffe and the others that marched around that statue believed it and believing it what could they do? If a people are oppressed they arise in their might and take the law into their hands. If they succeed they are patriots; if they fail they are traitors. This is the right of revolution which is a right justified by success alone. If a people find that the laws are utterly incapable of giving Justice may there not be a right to riot, the right people have of taking the law back into their own hands and administering it in person.

If innocent persons suffer, such is the misfortune resulting from the stress of circumstances. It is the law of the survival of the fittest. Might alone makes right and when the whole people of the community have almost to a man come to one conclusion, I know of no way of controverting the truth of that conclusion.

Chas. Theo. Greve

March 21st 1891