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LETTER OF TRANSMITTAL BY THE SECRETARY OF
U. S. WAR, WITH INCLOSURES, AS TO CHURCH
PROPERTY IN HABANA, CUBA.

WAR DEPARTMENT,
Washington, June 23, 1907.

MY DEAR MR. PRESIDENT: I beg to submit herewith a statement of an important question of policy which must be decided on or before the 30th of this month in the administration of the Government of Cuba. The question, shortly stated, is whether Governor Magoon, as the provisional governor of Cuba, shall order the payment of \$1,388,645.69 for certain properties in the city of Habana covered by the contract of October 23, 1901, in which the stipulated values are as follows:

Custom-house	\$1,080,000
University and institute	351,000
Academy of Sciences	50,000
House 39, Obrapia street	15,000
House 40, Cardenas street	3,550
Total	1,499,550

Under the terms of the contract, which I shall hereafter set out, the United States is given the option to buy this property at the price named less 25 per cent of the rent paid to June 1, 1907, which being \$110,904.31, leaves a balance of \$1,388,645.69, as before stated.

Perhaps a short history of the contract ought to be given, in order clearly to understand the situation of the parties. In the period between 1837 and 1841 Spain secularized in her various possessions a great portion of the property belonging to the various religious orders of the Roman Catholic Church and directed her governors-general on seizing the property to take the titles thereto. This led to a protracted controversy between Spain and the Pope, the final outcome of which was embodied in the concordat, published in 1861, in which it was agreed that the properties which Spain had sold should be dropped from consideration and that those which could be returned to the church should be so returned, but that those which had been put to secular uses, and were needed by the Government, should be retained by the Government, which should pay a rental therefor, amounting practically to an appropriation for the maintenance of religious worship. This sum was regularly paid by the state to the church in Cuba from the time of the concordat to the date of American occupation and amounted, in round numbers, to \$21,000,000. Upon the establishment of American intervention this payment to the church ceased, but the property continued to be in the

possession and devoted to the use of the Government. The attitude of the church was, "Either give us back our property or pay us for the use of it." The matter was referred to a judicial commission composed of Señor Llorente, justice of the supreme court; Señor Pichardo, justice of the audiencia of Pinar del Rio, and Señor O'Farrell, justice of the audiencia of Habana and professor of civil law in the University of Habana. The commission decided in favor of the claims of the church, and the subject was adjusted to the apparent satisfaction of all parties as to the real estate by the military government agreeing to pay a rental of 5 per cent upon the appraised values of the property, amounting to about \$2,000,000, with a five years' option to the Government of Cuba, when organized, to buy the property at the appraised value, receiving credit against the purchase price for 25 per cent of the rental paid. At the time referred to, the island of Cuba was divided into two dioceses—the diocese of Habana and the diocese of Santiago de Cuba. Two contracts were therefore entered into respecting the church property, one October 23, 1901, with respect to the diocese of Habana, and the other January 11, 1902, with respect to the diocese of Santiago de Cuba. The time fixed for the completion of the option was June 30, 1906. In June, 1906, the Government of Cuba was unable to make the payments, because the Cuban Congress failed to appropriate the necessary funds, and an extension of time was granted by means of a new contract entered into June 28, 1906, by the terms of which the time of payment was extended to December 31, 1906, and the Government was given the option of a further extension to June 30, 1907. There were other terms in the contract with reference to payment for destruction of property and the satisfaction of "censos," or mortgages, but it is not necessary to refer to them in order to understand the question here presented. I ought to say that the second contract—that one concerning properties in the diocese of Santiago de Cuba—contemplates the payment of about \$600,000 for certain properties named therein. I have not been able thus far, through Governor Magoon or otherwise, to secure information as to the value of the properties described, and I am not in a position, therefore, to recommend that the option reserved to the Government be exercised. It is quite clear from the description of the property that it is not of such a character as that the yielding possession of it to the church will cause any great public inconvenience. It is quite possible that even if the option is not exercised the church authorities will be willing to extend the contract of lease and the option. This, however, they are not willing to do in respect to the Habana properties, as will appear later, and action must be taken at once if the option to the Government in respect to that is deemed to be valuable and should be exercised.

Soon after the establishment of the provisional government in Cuba Monsignor Aversa, archbishop of Sardes and papal delegate for Cuba and Porto Rico, called on me in Washington on his way to Habana. I gave him a letter of introduction to Governor Magoon, and directed that the latter investigate the question of the two options or contracts with reference to the properties above described. Governor Magoon made a report that there was ample money in the treasury to complete the contracts, and in a letter of February 16 I expressed the view that it was greatly to the advantage of the Government to secure a good title in fee to all the property. I assumed

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from the general knowledge which I had of the great increase in the value of the property in Habana and other places in Cuba, due to the prosperous four years under the Republic, that there was no doubt that the assessed value of the property was less than its present value, and I had general information as to the indispensable character of the custom-house for Government purposes. I accordingly directed that steps be taken to exercise the option and to acquire title. There was considerable delay in this matter, and proper title was not submitted to the Government for acceptance.

On my visiting Habana, however, in April of this year, I found that there was pending a very heated newspaper discussion, in which the Havana Post, an English paper published by Americans, was contending that the property was not worth to-day the price fixed by the assessing board, and the plan proposed in that newspaper was that we should continue to lease the property and then let the Government make other arrangements when the Cuban Government should be restored. As soon as I learned that the question of valuation was in dispute I directed Governor Magoon to call the attention of the church authorities to this fact and to invite from them evidence as to the value of the property, if they desired to submit any, and also to make independent inquiry among the men who were supposed to have a knowledge of real estate values. Governor Magoon sets forth in his report the difficulties that arise in a Spanish country as to fixing a valuation upon property, and I am able to confirm what he says. I quote from his report, a full copy of which accompanies this, as to the peculiar value of said properties to the Government of Cuba:

The building and ground known as the "custom-house property" has been devoted to custom-house use for the past fifty years or more, and the business institutions of the city of Habana have congregated and consolidated in and about that location until now it is a practical necessity that the custom-house should be there. It is the best location, by far, for the custom-house, and if it is not secured by carrying out the contract it will be necessary to lease it or immediately expropriate it.

The building was overhauled and rearranged for the accommodation of these departments, and affords reasonably good accommodations. To move these departments with their files, documents, books, etc., would greatly interfere with public business and create confusion that would entail much trouble and serious consequences. It would take several years to build new buildings of the size and character required, and make necessary an investment much larger than the purchase price under the contract, although the new buildings would be better than the old one. It is safe to say that we are obliged to stay in this building until we can erect a new one, and the new one should be on the site of the present structure.

The property used as the Academy of Sciences is also required by the State. The building that was on this land at the time the contract was entered into was demolished and a new structure at a cost of \$38,299.49 erected. This building is a part of a plan, and the officials of the academy require the remainder of the building called for by said plan, which is to be built on a portion of the ground included in this contract. This academy is doing good work, and if we do not secure this property by compliance with the contract, the land and building should be expropriated.

Up to the present time the building known as the "Old University" has not been of much use to the Government, but can now be utilized to advantage.

The post-office department, the Habana city post-office, the central office of the Government telegraph system are all in one building. They have outgrown this building, and in addition the structure is in very bad shape and liable to fall down. In addition, I am seriously contemplating extending the Malecon along the water front through the city in order to give better access to the water front. If this is done, the building now occupied by the post-office

would have to be demolished. If we get the university property I would immediately move the post-office department, and telegraph service into the old university building, leaving the city post-office where it is at present until a new post-office could be built in some other location. The remainder of the university property is used as an institute (high school) for the city of Habana. Its use is required until a better structure can be erected, and thereafter it can be used for school purposes or other governmental services.

Governor Magoon's judgment is that that which purports to be an option was really a settlement and a contract to buy by the Government. He quotes the argument of the church authorities on the subject and his own recollection as law officer of the Insular Bureau at the time the contract was made. I do not think that this view can be supported. An examination shows that the form was that of an option, and I do not know how that which is only an option can be made to be a mandatory obligation. For that reason I should not advise the purchase of this land unless it is a purchase profitable for the Government to make under all circumstances.

Speaking of the value of the property, Governor Magoon's report is as follows:

The properties covered by the contract of October 23, 1901, and the stipulated values are as follows:

Custom-house -----	\$1,080,000
University and institute -----	351,000
Academy of Sciences -----	50,000
House 39, Obrapia street -----	15,000
House 40, Cardenas street -----	3,550
Total -----	1,499,550

The contract provides that 25 per cent of the amount paid for rent of these properties by the Government is to be deducted from this price in event the purchase is completed. Twenty-five per cent of the rent paid to June 1, 1907, is \$110,904.31, leaving a balance of \$1,388,645.69.

The principal item in this list is the building and ground of the Habana custom-house. This property borders on the waters of the harbor, and between the building and the water is the "littoral" or shore line. The "littoral" consists of a strip of land 40 meters wide from the high-water line to the landward. Under Spanish law this strip belongs to the Government, but may be conveyed to individuals, associations, etc. The "littoral" or water front at this particular point is of great value, and the objectors to this purchase place much stress on the allegation that the "littoral" does not belong to the church. It will be recalled that prior to entering into the contract the question of ownership was determined by a judicial commission appointed by the military government. I am unable to find the report of this commission; it must be with the files of the military government now deposited with the Bureau of Insular Affairs, War Department, Washington. However, the question of ownership is determined by the recital of the contract, as follows:

Translation.

"The honorable military governor of Cuba, representing the military government of the United States in the island, in view of the recommendations of the commission appointed in the matter, recognize the rights of dominion of the Roman Catholic Church in Cuba over property of ecclesiastical origin possessed by the said church in the diocese of Habana, as well as the following:

"(A) The building formerly known as the Church Convent of San Francisco, with the ground on which it is built, as well as the right it may have to the 'littoral' and to the other buildings and improvements constructed on said ground and at present used by the Government for the custom-house of the port of Habana. The said building and ground annexed thereto comprise the entire block, bounded by Oficios street, Churrucha alley, Muelle de Caballeria street, and San Francisco plaza, and measure 115 meters 10 centimeters frontage on

the first-named street, 77 meters 40 centimeters on the Churrucha side, 102 meters on the side facing the wharves, and 56 meters 90 centimeters frontage on the San Francisco plaza, making a total area of 7,129.75 square meters.

"The Franciscan monks commenced the construction of these edifices in the year 1757, and remained in peaceful possession of this property until the 15th of November, 1841, when the same was confiscated."

Old maps in the department of public works show that, at the time the building now used as a custom-house was erected (1757), the water line was close to the structure, the foundation being as near the water as prudence permitted; in fact, the only land between the building and deep water was a mud flat submerged by the tide, and the wall toward the sea was built on piles. Apparently this establishes that, at that time, the church owned the then littoral. The first fill was made between 1762 and 1800, and made a strip of land, running the entire length of the building, about 20 meters (65 feet) wide. On this land was erected an addition to the original structure. This addition covers practically all of the fill then made. One side of this addition was the old structure; in fact, it is a "shed" addition, built for the purpose of extending the ground-floor space of the custom-house, and is used in connection with the custom-house business. In 1870 another shed addition was built on the sea side, adjoining the first shed extension. A subsequent fill backed up the waters of the bay and created a strip of land, about 16 meters (50 feet) wide, between the custom-house and the bulkhead line, which is now inclosed by an iron fence, and the space thus inclosed is paved and used for custom-house purposes, such as the storage of cargo, and for the passage of carts and persons to and from the wharves. The Government wharves adjoin this piece of land, but are outside of the bulkhead line. (See map herewith transmitted.)

Referring again to the boundaries set forth in the extract from the contract hereinbefore quoted, I have conferred with Lieut. Col. W. M. Black, U. S. E. C., adviser to the department of public works, and he advises me that the boundaries therein mentioned described the land covered by the building as it is to-day, including the two shed additions and the greater portion of the ground made by the first fill.

The church authorities claimed the strip of land between the custom-house building and the bulkhead line at the time the negotiations were had in 1902, and now insist that their right thereto was admitted and established by the stipulation of the contract recognizing the title of the church to "the building formerly known as the church convent of San Francisco, with the ground on which it is built, as well as the right it may have to the littoral and to the other buildings and improvements constructed on said ground and at present used by the Government for the custom-house of the port of Habana."

It seems clear that the land created by the first fill was acknowledged to be the property of the church, for not only was the structure erected thereon, but the contract with the military government especially includes this land in describing the church structure. As to the land produced by the second fill, it is not so clear, for there are no structures thereon, the improvements being the pavement and fence, but it is used for custom-house purposes exclusively.

In attempting to ascertain the present market value of this property, by inquiry of private individuals, I encountered a decided aversion to putting a price on another man's property. I encountered the same aversion in Panama, and doubtless the Secretary of War became familiar with it in the Philippines. In Panama it was practically impossible to fix the value of land by private inquiry. This difficulty exists, I think, in all Latin countries. In those countries, more than in others, the price of property is controlled by the necessity or credulity of the purchaser and the whim or fantastic ideas of the prospective vendor. If you attempt to buy a piece of land the first inquiry is: What use do you intend to make of it? And the value is fixed by the prospective or speculative values after applied to such use, and also there is taken into consideration whether or not there are other locations available for the desired purpose. The idea seems to be, what is the land and location worth to the *purchaser* instead of to the *owner*, and then follows the question: How much is the purchaser able and willing to pay? This is the ordinary and well-received procedure, and outside parties naturally are adverse to interfering with what is considered the right of others to secure favorable terms. I called upon Monsignor Aversa to furnish certificates of value from private persons, and from the character of his response I judge he encountered the same difficulty.

My request to Monsignor Aversa to supply evidence as to present value of the property was, by letter, as follows:

"Secretary Taft, shortly before leaving Habana, and after his interview with you and Bishop Estrada, requested me to ask you to have your attorneys secure affidavits as to the present value of the properties covered by the agreements between the Roman Catholic Church and the Government of Cuba.

"It has been represented to the Secretary that the present value of said property is not so great as it was at the time of the appraisal in 1901. The Secretary's informants alleged that the increase of value in Habana real estate is not general throughout the city, but is confined to detached locations, and that the properties in question do not present instances of increased value, but on the contrary have decreased in value, and specific mention is made of the Aduana, which, it is claimed, had decreased in value because of the elevated railway. This representation having been made to him, the Secretary feels that he should be further advised in such form as to have the evidence on record; hence his request for the affidavits."

In response Monsignor Aversa called and stated the difficulty, or rather impossibility, of securing affidavits fixing any value whatever; that no one would be willing to swear that a piece of property was worth a fixed price, and that he and his attorneys were surprised that anyone should think such course could be pursued. I explained to him that such affidavits were common in the United States, but that increased his surprise. He handed me a letter and a number of certificates from well-known and reliable citizens. Subsequently he delivered a second letter with a definite appraisal and a written offer to purchase the property at prices in excess of the prices fixed by the contract. This offer comes from Sr. William Redding, a wealthy resident of Habana, who is financially able to make the purchase. Redding states that the United Fruit Company is associated with him in the offer to purchase.

I inclose copies of the two letters from Monsignor Aversa and the documents presented with them.

The appraisements fixed by the writers of the letters presented by Monsignor Aversa with his second letter are as follows:

	Custom-house.	University and institute.	Academy of sciences.	Total.
Joaquin de Freixas y Pascual.....	\$1,600,000	\$425,000	\$150,000	\$2,175,000
Narciso Gelats	1,500,000	400,000	75,000	1,975,000
Francisco L. del Valle	1,300,000	400,000	70,000	1,770,000
Juan Pablo Forarely.....	1,200,000	380,000	60,000	1,640,000
Dionisio Velazco.....	1,782,500	381,350	108,040	2,271,890
Average valuation.....	1,576,500	397,270	92,608	1,966,378

In addition, there is a letter from Sir William H. Redding, who offers to buy all the Habana property at the price mentioned in the deed, paying a total sum of \$1,499,550.

None of the above appraisements include the valuation of house 39, Obrapia street, valued in the contract at \$15,000, and house 40, Cardenas street, valued in the contract at \$3,550.

In addition to the request of Monsignor Aversa to submit evidence as to the present values for the properties in Habana, I made personal inquiries of a number of persons and encountered the difficulty hereinbefore mentioned, viz, an unwillingness to give figures as to values. I then determined to select three men with well-established reputations for ability and fairmindedness, and after due inquiry selected Doctor Berriel, rector of the University of Habana; Dr. Leopoldo de Sola, the leader of the Habana bar and a man of great wealth, and Sr. Jose Antonio Pichardo, president of the chamber of the supreme court of Cuba.

I invited those gentlemen to a conference and asked them if they would make an appraisal of these properties. The president of the chamber of the supreme court stated that prior to occupying his present position he had lived in Camaguey and that he was not sufficiently familiar with prices of real estate in Habana to give an expert opinion. The other gentlemen expressed their willingness to comply with the request. The rector of the university suggested that he

secure the assistance of the professor of engineering and the professor of architecture in the university, and his suggestion was adopted. I thereupon addressed a letter to Señor Sola and to Doctor Berriel, putting the request in writing. I inclose copy of said letters and the responses thereto. It will be noted that the rector of the university turned over the matter to eight members of the university faculty and did not participate in the appraisal himself.

The values fixed by Sr. Sola are as follows:

Custom-house	\$1,300,000
University and institute	350,000
Academy of sciences	90,000
House 39, Obrapia street	14,000
House 40, Cardenas street	1,500
Total	1,755,500

This appraisalment is joined in by Messrs. Tomas Fernandez and Jose Garcia, two prominent merchants and property owners in the city of Habana.

The university committee appraise the values, without including the littoral or the expense and inconvenience of transferring to other quarters, as follows:

Custom-house	\$640,000
University and institute	300,000
Academy of sciences	50,000
House 39, Obrapia street	12,000
House 40, Cardenas street	3,500
Total	1,005,500

I also invited Mr. William L. Wood, an American citizen and property owner of Habana, to give an estimate of the value. His estimate, as shown by the letter I inclose, is as follows:

Custom-house	\$1,500,000
University and institute	360,000
Academy of sciences	75,000
House 39, Obrapia street	22,000
House 40, Cardenas street	3,000
Total	1,960,000

On May 16, 1907, I also addressed a letter to Mr. H. B. Leavett, editor of the Habana Post, copy inclosed, inviting him to submit evidence as to the value of the church property, but have as yet received no response. I inclose, however, a list of the issues of the Habana Post containing articles regarding the contemplated purchase of this property.

The average valuation by the ten men who assessed the property independently is therefore \$1,855,794.

If these values are considered in connection with those of the eight members of the university faculty, the average valuation by the eighteen gentlemen is found to be \$1,477,885.56.

The amount due on these properties under the contract on June 1, 1907, after deducting 25 per cent of the total rents paid (as provided for in contract), is \$1,388,645.69.

The suggestion has been made a number of times by persons opposed to the carrying out of the contracts by the provisional government that the option and lease should be extended for a period of two years, and thereby give the Cuban Congress an opportunity to determine the matter. I discussed this proposal with the church authorities, and found that they are unwilling that further delay be had, and insist that the matter should now be brought to final conclusion. They allege that the necessities of the church will not permit such delay, and call attention to the fact that many of the church edifices and religious institutions are in great need of repair; that the revenues of the church are not sufficient to enable them to make these repairs; that many of their structures were greatly damaged by the cyclone of last fall, and that the suggested delay would work them irreparable injury. There is no doubt that many churches of the Habana diocese are greatly in need of repair, and if the proceeds of the sale are to be devoted to such repair, public benefits would accrue that are worthy of consideration in determining whether or not the contract should be carried out.

And the attitude of the church authorities upon this subject is shown by correspondence between Governor Magoon and Monsignor Aversa.

HABANA, CUBA, *May 31, 1907.*

MY DEAR MONSIGNOR: In the event the provincial government of Cuba should consider it inadvisable to avail itself at this time of the option to purchase the property situated in the bishopric of Habana, covered by the contract between the military government of Cuba and the authorities of the Roman Catholic Church, dated October 23, 1901, and extended by agreement with the Republic of Cuba in June, 1906, would the church authorities be willing to extend said option and the lease under which the property is now occupied by the Government for a period of two years?

Are the church authorities willing that the provisional government should exercise the right created by the contract of October 23, 1901, to purchase the custom-house property and the property known as the Academy of Sciences at the prices stipulated in said contract, or to extend said option and lease as to these two properties for a period of two years?

Very truly, yours,

CHARLES E. MAGOON,
Provisional Governor.

Monsignor JOSEPH AVERSA,
*Archbishop of Sardes, Apostolic Delegate to
Cuba and Porto Rico, Obispado, Habana 58, Habana, Cuba.*

HABANA, *June 1, 1907.*

YOUR EXCELLENCY: I have been greatly honored by the receipt of your favor of yesterday, in which you ask whether in the event that the Republic of Cuba fails to make use of the option to purchase certain property of the Roman Catholic Church on or before June 30, 1907, as per agreement entered into, the Roman Catholic Church would extend said options and agreement for a further period of two years for all or for part of the property. In reply, I have the honor to say that such extension for any part or all of the property is not practicable, as offers to purchase are pending on the refusal of the Government to purchase, in which case the property in question will at once be sold to private parties.

I have the honor to remain, your obedient servant,

GIUSEPPE AVERSA,
Archbishop of Sardes, Apostolic Delegate.

To His Excellency CHARLES E. MAGOON,
Provisional Governor of Cuba, Habana.

I have had myself a conversation with the responsible editor of the Habana Post, and found that his estimates were based on the price of small pieces of property which had been sold in the neighborhood of the custom-house at square meter value, but that he did not appear to have taken into consideration the value of the possible claim to the water front or the difficulty in the Government's obtaining so large a block of property by expropriation at reasonable prices. Governor Magoon does not discuss the effect of the erection of the elevated railway in front of the custom-house. After consideration, I doubt whether it ought to affect the value of the property at all, certainly not for government purposes, for the reason that it relieves the congestion of transverse traffic immediately in front of the custom-house and does not interfere in the slightest with access to either story. Mr. L. V. de Abad, the editor of the Economista (a business paper published in Habana), a witness of good reputation, made an investigation for me and gave me a very full

statement with reference to the values of the property, which I append, and his estimate reaches the sum of \$1,165,926, without including any value to the water front.

The written offer of Sir William Redding to purchase the land now in question, at the full price of \$1,499,550, Governor Magoon cables me he has good reason to think is made in the interest not only of the United Fruit Company but also in the interest of a line of steamships. Sir William Redding is a very wealthy man and a prominent member of the Roman Catholic Church, and therefore would be glad to render such assistance as he may to the consummation of a contract profitable to the church, but neither Governor Magoon nor I have any reason to believe that his offer is not a genuine one, as shown on its face and as stated by Monsignor Aversa. And by that offer he proposes to pay the church \$110,000 more than the Government in exercising the option will have to pay.

The truth is, one at all familiar with the situation in Habana must be aware how indispensable to the Government is the holding of the custom-house property for the public purposes for which it is now used. It is true that the great bone of contention is whether the custom-house property is worth \$1,050,000, at which it was appraised by the original board of appraisers, who were high judicial officers under General Wood's military government. It will be found that the great value of the custom-house property is its proximity to the wharf and what is claimed by the church authorities to be the right that they have in the littoral or the wharfage front. Governor Magoon sets out the question upon this fairly, and it is very apparent that in the settlement which was made the Government did recognize that the church authorities had some claim of right to the littoral or wharfage front. If this right was established by a decree of court, there is not the slightest doubt that the custom-house property would be worth far more than the price at which it is assessed, and it is reasonable to suppose that the assessment as originally made was on the theory of settling what would prove to be an ugly lawsuit. I think, therefore, that the valuation in the original assessment when compared with the valuations given by the witnesses whose testimony has been referred to is not at all an unfair valuation. When it is considered from the standpoint of a Government that must have the custom-house property, and which if it does not get it by contract must obtain it by expropriation, there is not the slightest doubt in my mind of the wisdom of exercising the option. Anyone who has had any experience whatever in expropriation proceedings in a Latin country will understand that there is inevitably added to the price imposed upon the Government or any public corporation exercising the power of eminent domain a very considerable sum over and above what the property might be purchased for in the market between private individuals.

The proposition to continue the leasehold arrangement in order that the Republic, when restored to control, may determine itself the question whether this option shall be exercised is not tenable, for the reason, as already shown, that the church authorities, with an offer for purchase in their hands at a greater price than that which the Government will have to pay, advise us that they will close at once with that offer should we allow the option to lapse. The attitude of

the church authorities is justified by their experience with the legislature of the Republic, who for two years have failed to make any appropriation, although that was brought to their attention and recommended by the President of the Republic.

The truth is we find ourselves in the situation where by reason of the circumstances we must act, and I have not the slightest doubt myself that considering the matter from the standpoint of a Government with an option to buy at a certain price or with the alternative of necessary expropriation, with all that that involves in a Spanish country as to excessive price, that we must regard ourselves as fortunate in having the opportunity to buy. I therefore recommend that I be directed to order Governor Magoon to notify the church authorities of the intention of the Government of Cuba to exercise the option granted to it in the contract of October 23, 1901, and extended by means of a contract June 28, 1906, to June 30, 1907.

Very respectfully, yours,

WM. H. TAFT, *Secretary of War.*

The PRESIDENT.

REPORT OF CHARLES E. MAGOON, PROVISIONAL GOVERNOR OF CUBA, ON THE CONTRACT DATED OCTOBER 23, 1901, BETWEEN THE MILITARY GOVERNMENT OF CUBA AND THE ROMAN CATHOLIC CHURCH FOR THE PURCHASE OF CERTAIN PROPERTIES SITUATE IN THE CITY OF HABANA, REPUBLIC OF CUBA.

REPUBLIC OF CUBA, UNDER THE PROVISIONAL
ADMINISTRATION OF THE UNITED STATES,
OFFICE OF THE GOVERNOR,
Habana, Cuba, June 1, 1907.

SIR: In compliance with your request for a full and complete report on the matter of the contracts between the military government of Cuba and the Catholic Church for the purchase by the Government of certain properties and the discharge of certain claims asserted by the church, I have the honor to respond as follows:

Upon the establishment of the military government of Cuba at the close of the Spanish-American war there was terminated the unions of church and state which existed under Spanish sovereignty. This resultant was accepted by the Catholic Church without objection. Thereupon arose the question as to what should be done about the church properties in Cuba. Some of these properties had been occupied by the Spanish Government and the occupancy continued by the military government, and all of the properties had been administered by the Spanish Government. There were also included certain claims for use of church property, and also damages thereto by the Government during the war and the subsequent military occupation. The situation is stated by General Wood, military governor of Cuba, as follows. (See Civil Report, Brig. Gen. Leonard Wood, military governor of Cuba, 1901, vol. 1, pp. 45 to 47) :

The question involved in the settlement of property belonging to the religious orders of the Roman Catholic Church was referred to in the report of 1900. This matter has been continued during the present year and practically concluded, with the exception of certain property in the archbishopric of Santiago de Cuba, concerning which a basis of agreement is already under consideration. The whole question of church property in Cuba is briefly stated as follows:

In the period between 1837-1841 Spain secularized in her various possessions a great portion of the property belonging to the various religious orders of the Roman Catholic Church. This act affected the church properties in Cuba. At the time of the secularization the Government of Spain directed her Governors-General on seizing this property to seize all titles thereto, consequently the question of settlement was made much more difficult. This act of the Spanish Government led to a protracted controversy between Spain and the Holy See, the final outcome of which was embodied in the Concordat, published in 1861, in which instrument it was agreed, in effect, with Spain that the properties which had been sold should be dropped from consideration, and those which could be returned to the church should be, and that those which had been put to secular uses and were needed by the Government should be retained by the same, but that the Government should pay a rental therefor, which amounted practically to an allowance for the maintenance of worship. This sum was regularly paid in Cuba by the state to the church, and from the time of the Concordat to the date of American occupation this amounted, in round numbers, to approximately \$21,000,000. Upon the establishment of the American

intervention payments to the church for the use of these properties ceased, but the property continued to be in possession of and devoted to the uses of the Government. The claim of the church was, concretely, "Either give us back our property or pay us for the use of it."

After considerable discussion and extended investigation it was apparent that the claims of the church were just and reasonable, and that it was incumbent upon the military government to take such steps as were necessary to recognize the rights of the church and to deal with it equitably and fairly. With this end in view, the judicial commissions referred to in the report of 1900 were established, and upon the reports submitted by them a basis of agreement was established.

The military governor and the bishop of Habana, representing, respectively, the government of intervention and the Roman Catholic Church and its various orders, past and present, accepted the properties substantially as presented by the judicial commissions.

These properties consisted of real property, such as lands and buildings, in various parts of the island, and "censos," or mortgages, and "capellanfas," a type of religious mortgages placed upon property to pay for masses and religious observances for the dead. These latter mortgages were usually in perpetuity. It may be said that in certain sections of the island properties were literally covered with them. After protracted discussions the bishop of Habana and the military governor came to an agreement as to the value of the real property of the church in the bishopric of Habana. The nominal value of the "censos" and mortgages was of course apparent, but there was considerable difficulty in coming to a basis of agreement as to their real value. This, however, was finally accomplished, and amounted to an acceptance of approximately 36 cents on the dollar—an agreement which is believed to be to the advantage of the state, as many of these mortgages were secured by property in Habana and in other prosperous towns in the vicinity. The real property consisted principally of some large public buildings and land in the city of Habana. The value thereof was appraised by expert appraisers.

This agreement was embodied in a formal document, in which the state was guaranteed an option to buy the real property at the value agreed at any time within five years from the date of the agreement; and until such time as the state should buy it was agreed that it should pay an annual rental at the rate of 5 per cent on the accepted value of the property which the government retained the use of. The "censos" and "capellanfas" were bought outright for approximately 36 per cent of their nominal value. The church was also compensated for the use of the property from the date of occupation to the date of the signing of the agreement. This settled definitely and for all time the much disputed question of church property in the bishopric of Habana.

As above stated, negotiations are now in process concerning the property of the Archbishopric of Santiago. It is believed the matter will be settled at an early date in the coming year.

I consider this settlement of the question of church property as most important, and one which will remove from the coming Cuban Government a great and fruitful source of annoyance.

The position of the Roman Catholic Church in Cuba during the American occupation has, to a certain extent, been a trying one, as it found itself under entirely new conditions, incident to the severance of those relations which had formerly existed in Cuba between church and state. The attitude of the church, however, has been one of cooperation with the military government in the work it has had to perform in Cuba, and the relations existing have always been harmonious and friendly.

In the Annual Report of the Secretary of War for 1901, the matter is set forth as follows (see Report of the Secretary of War, 1899-1903, pages 183 to 184):

Immediately preceding American occupation the Spanish Government of Cuba was occupying and using for Government purposes a large amount of valuable real estate which had formerly been the property of the Roman Catholic Church and which was held by the Crown subject to the results of a long series of negotiations and agreements between the Crown of Spain and the Holy See. The Government also held a large amount of "censos," or mortgages, upon property in different parts of the island which had been given to the church for various religious purposes and which had been taken over by the Crown and

held under the agreements referred to. The Crown of Spain on its part recognized and complied with an obligation to pay to the church a large annual sum for its maintenance and support.

With American occupation the payment of this annual sum ceased, while the intervening Government entered into possession of the property and employed the greater part of the real estate for the same governmental purposes to which it had been devoted under Spanish control. The church thereupon claimed the right to be repossessed of its property. After a great deal of discussion and investigation the various questions as to property rights raised by the church were submitted to a judicial commission composed of Pedro Gonzales Llorente y Ponce, justice of the supreme court, Juan Victor Pichardo y Gonzales, justice of the audiencia of Pinar del Rio, and Juan Francisco O'Farrell y Chappotin, justice of the audiencia of Habana and professor of civil law in the University of Habana.

The commission decided in favor of the claims of the church, and the whole subject has been adjusted to the apparent satisfaction of all parties, as to the real estate, by the military government paying a rental of 5 per cent upon the appraised values of the property, amounting to about \$2,000,000, with a five years' option to the Government of Cuba, when organized, to buy the property at the appraised value, receiving credit against the purchase price for 25 per cent of the rental paid, and as to the "censos" by the military government taking them at 50 cents on the dollar and permitting the debtors to take them up at the same rate.

At the time referred to in the foregoing reports the island of Cuba was divided into two dioceses—the bishopric of Habana and the archbishopric of Santiago de Cuba.

The contract respecting the church property, censos, and claims in the bishopric of Habana was entered into on October 23, 1901, and that as to the archbishopric of Santiago de Cuba on January 11, 1902.

The time fixed for the payments under the original contracts was June 30, 1906. In June, 1906, the Government of Cuba was unable to make the payments, as the Cuban Congress had failed to appropriate the necessary funds, and therefore, an extension of time was secured, by means of a new contract entered into June 28, 1906, by the terms of which the time of payment was extended to December 31, 1906, and the Government given the option of a further extension to June 30, 1907. Official copies of these several contracts are on file in the Bureau of Insular Affairs of the War Department. Reference is made thereto, and it is requested that they be considered a part of this report.

Thus the matter stood when the existing provisional government was established. The Hon. William H. Taft, the first provisional governor, was not called upon to take any steps in this matter. Soon after I became provisional governor I received a call from the bishop of Habana, who advised me that Monsiñor Aversa, archbishop of Sardes and papal delegate for Cuba and Porto Rico, who had been absent from Cuba on a trip to Rome, would soon arrive in Habana and desired to take up the matter of compliance with said contracts. Upon his arrival Monsiñor Aversa called on me and presented a letter from the Secretary of War, as follows:

This will introduce to you Monsiñor Aversa, archbishop of Sardes, who is and has been delegate apostolic from the Vatican to Cuba. Monsiñor Falconio, the delegate apostolic of this country from the Vatican, has been good enough to make me acquainted with Monsiñor Aversa, and I have had the pleasure of presenting him to the President and the Secretary of State. Monsiñor Aversa has a very important matter which he wishes to bring to your attention concerning the purchase by the Cuban Government of certain valuable structures now occupied for public purposes under a contract made by the military government established by the United States in Cuba after the Spanish war.

The contract was made, as I recollect it, by General Wood and Monsiñor Sbaretti, and has been modified by an extension of the option of purchase contained in it. I should be glad to have you make as full an investigation as possible into this matter and submit the whole question to me at as early a date as is convenient. My impression is that there are two contracts, one relating to Habana and one to Santiago. General Wood made both contracts, but the representative of the church at Santiago was not Monsiñor Sbaretti. Meantime I commend Monsiñor Aversa to your courteous reception and attention.

On January 26, 1907, I reported to the Secretary of War as follows:

In compliance with your request for a report on the matter of the payment of the purchase price of the church property, as provided for in contracts made by the military government of Cuba in 1901 and 1902, I have the honor to advise you as follows:

The original contracts, or official copies thereof, with English translation, will be found in the Washington files of the military government of Cuba. The time fixed for payment under the original contracts was June 30, 1906. In June, 1906, the Government of Cuba was unable to make the payment, as Congress had failed to appropriate the necessary funds, and therefore an extension of time was secured. This arrangement was evidenced by a new contract entered into June 28, 1906, a copy of which document is herewith transmitted.

By the terms of the new agreement the time of payment was extended to December 31, 1906, and the Government given the option of a further extension to June 30, 1907.

I inclose also copy of a report on the present and prospective condition of the Cuban treasury, made and prepared by Maj. J. D. Terrill, adviser to the Treasury Department.

In this report Major Terrill estimates that, after eliminating the \$1,000,000 and premium of \$100,000 on the Cuban bonds purchased by the Palma administration (ordered canceled) and expending \$11,093,161.39 between now and June 30, 1907, there would remain in the treasury on that date (June 30, 1907) a balance of \$7,082,060.81, provided that of the \$7,875,862.12 appropriated under special laws (public works), not more than \$3,375,862.12 are expended, which is about all that can be expended of these special appropriations between now and June 30, 1907.

The amount remaining unpaid on the purchase price of said property (as reported by Major Terrill) is \$1,932,143.99. Deducting this amount from the estimated balance that would otherwise be on hand on June 30, 1907, leaves \$5,149,916.82 on hand at the latter date.

I think the estimate set forth in the report is well within bounds. The sugar crop of the islands is certain to be far above the average, and the rain of yesterday has improved the chances of the tobacco crop. The large amount of money brought into the island by the sale of these crops will certainly induce sufficient importations to reach the estimate of customs receipts.

From the foregoing statement, and reports herewith submitted, it appears that the Government would not be embarrassed, financially, by the payment on said contracts of \$1,000,000 now and monthly payments thereafter of \$100,000 until the debt is discharged; payments for rental and interest to cease when first payment, as above, is made. The proposed settlement will be satisfactory to the church authorities here.

I have the further honor to request definite instructions as to what action shall be taken.

Thereafter I was advised as follows:

WASHINGTON, February 16, 1907.

SIR: I beg to acknowledge receipt of your letter of the 26th of January in reference to the matter of the payment of the purchase price of the church property, as provided for in contracts made by the military governor of Cuba in 1901 and 1902.

There is no doubt about the obligation of the Cuban Government to pay this sum to the church. There is no doubt that it is greatly to the advantage of the Government to secure a good title in fee to this property, which it is constantly using and which it can not possibly dispense with. The amount remaining unpaid is \$1,932,143.99. If this be paid out of the treasury it is estimated that

there will be in the treasury on the 30th of June, 1907, \$5,149,916.82, if the revenues are maintained at their present figures, after the \$3,375,862.12 are expended between now and June 30, 1907, and all probably that ought to be expended. Your proposition is that \$1,000,000 should be paid at once, and that monthly payments thereafter of \$100,000 should be made until the debt is discharged, payments for rental and interest to cease when first payment, as above, is made. You advise me that the proposed settlement will be satisfactory to the church authorities there.

I think this is a very admirable settlement for the Government and the church, and you are hereby directed and authorized to make the payments accordingly, and to issue decrees to carry out your recommendation, which, by direction of the President, I fully approve.

Very respectfully, yours,

WM. H. TAFT, *Secretary of War.*

HON. CHARLES E. MAGOON,

Provisional Governor of Cuba, Habana, Cuba.

Pursuant to the foregoing instruction, I took up the matter of completing the transfer of title, whereupon it developed that Monsignor Aversa expected to execute the deeds himself, acting under authority of a power of attorney from Cardinal Merry del Val, papal secretary of state, as follows:

His Holiness Pius X, desiring to definitely decide, the soonest possible, the various financial questions now pending in connection with the church properties in the island of Cuba, has deigned to appoint Mgr. Giuseppe Aversa, archbishop of Sardes, and his delegate in said island, to be his plenipotentiary to the above effect, conferring him each and every necessary and convenient power, either to negotiate in respect of the conveyance and sale of the properties belonging to the church in Cuba or to execute contracts of conveyance and sale of said properties.

All of which the undersigned secretary of state communicates to the above-mentioned Monsignor Aversa, for his guidance and the appertaining effects.

R. CARD. MERRY DEL VAL.

I objected to this means of conveying the title, for the reasons that such of said property as was registered appeared in the registry as belonging to the bishopric of Habana, or the archbishopric of Santiago de Cuba; also that the power of attorney was not sufficient nor duly executed and legalized under the laws of Cuba. Monsignor Aversa insisted upon the sufficiency of a deed executed by him, and thereupon ensued the following telegraphic correspondence:

HABANA, *March 7, 1907.*

TAFT, *Washington:*

In conference with Monsignor Aversa respecting transfer of church property, we agree that best plan is to execute, deliver, and register deed making complete transfer upon payment of \$1,000,000, the Government to enter into separate contract for the payment of balance purchase price in monthly payments \$100,000. Question arises as to who should execute deed. Monsignor Aversa has power of attorney, signed by Cardinal Merry del Val, papal secretary of state, authorizing him to execute deed. Part of property is not registered. Some pieces in name of bishopric of Habana. I suggested to Aversa advisability of deed being signed by him and also by bishop of Habana and archbishop of Santiago. He thinks his signature sufficient and would prefer to have deed executed by himself alone. He suggests that he secure letters from bishop of Habana and archbishop of Santiago approving his action in making transfer, or that they would attach their approval to deed. I suggested they execute power of attorney to him. He objected, for reason that he was their superior, and under ecclesiastical law they are not empowered to confer authority upon their superiors. The instrument extending contract executed last June was signed by Monsignor Aversa alone. It is difficult to determine whether title to property is in Rome or in the local diocesan authorities. What course was pursued in the Philippine Islands? What course should be pursued in Cuba?

MAGOON.

WASHINGTON, March 8, 1907.

MAGOON, Habana:

You should consult the civil and canonical lawyers of Cuba as to the character of the transfer needed under canonical law. The title of land held by the church is generally in the bishop of the diocese, and I should not regard a transfer as complete which did not contain a conveyance from the bishop of Habana for the property in Habana, and the archbishop of Santiago for the property in Santiago. You can also take a conveyance from the apostolic delegate, though I doubt if that adds greatly to the legal title. There should be, of course, evidence of his representative capacity. However, this is at long range, and you should consult men learned in the law in Cuba with reference to the transfer, because, of course, the local laws govern.

TAFT.

I learned, upon inquiry, that the president of the supreme court was considered the best authority on canonical law in the island and thought I would refer the matter to the supreme court, but upon investigating the law as to what matters could properly be decided upon request from the Executive I found this matter was not included. Thereupon I called for the opinion of the fiscal of the supreme court, who told me the president of the court would confer with him with reference to the correct answer. A copy of the fiscal's opinion is inclosed herewith.

The matter was also referred to the acting secretary of the treasury, who submitted the matter to the attorney for that department, and I inclose copy of the reply received.

The method of transfer advised by both these attorneys, in brief, is as follows:

Archbishop Aversa, apostolic delegate to Cuba and Porto Rico, should authorize the sale and transfer by the bishop of the diocese in which the property is located. To establish and make of record his power to grant such authorization there should be filed with the deed the documents creating him the papal delegate to Cuba and Porto Rico and also the written grant of authority to the local bishop. By virtue of the authorization of the papal delegate the local bishop executes the deed.

The canons of the church permit a bishop to sell and transfer church property of the value of less than \$5,000 without prior authority from Rome. Where the property exceeds \$5,000 in value, the permission of the Pope must be secured prior to the sale and transfer. In such matters the papal delegate is authorized to grant the required permission.

Although public statement had been made that the provisional government intended to complete the purchase of the church properties and that final arrangements were under way pursuant to direction from Washington, no decided opposition appeared. On February 27, 1907, the Habana papers published a dispatch from Washington announcing the impending purchase of the church properties by the provisional government pursuant to the contracts of 1901 and 1902. One of the two English newspapers of Habana—the Habana Post—began a violent campaign against the purchase, alleging that the property is not worth the amount to be paid therefor; that President Palma refused to purchase the property for \$1,500,000; that the country was opposed to the purchase; that the provisional government did not possess the authority to expend the public moneys of Cuba, and in addition it has charged recently that the transaction is tainted with fraud in that a fee of \$400,000 is to be paid for the completion of the

contracts. Other Habana newspapers—El Mundo, El Rebelde, and El Comercio—oppose the purchase, but not so violently as the Post. La Lucha and La Discusion have not deemed the subject worthy of remark. The Habana Telegraph, the other of the two American papers in Habana, strongly favors the purchase and has frequently expressed indignation at the conduct of the Post. The Diario de la Marina, the principal paper of the Spanish contingent, deprecates the opposition and advises that it be disregarded. So far as I can learn none of the newspapers of the interior towns object to the purchase. No protests have been received from organizations or individuals, except as above stated. Perhaps I should mention that during your last visit you were called on by the editor of the Post and a Baptist minister—the Reverend Doctor May—both of whom objected to the purchase.

If there were a widespread opposition to this purchase I am certain the newspaper campaign against it would have caused some action in the way of protests or public demonstrations. The delay incident to securing legal advice as to by whom the transfer should be executed extended the transaction to the time of your visit in April, at which time you directed me to call on Monsignor Aversa for evidence as to the present value of the property. This being done, the archbishop expressed great surprise and stated that the purchase price was fixed by the contracts. The newspaper attacks had given more prominence and emphasis to the "option" stipulation than it had before received, and the papers opposed to the sale had urged that Cuba "back out" and was legally authorized to do so. I presented this phase of the matter to Archbishop Aversa and Bishop Estrada, bishop of Habana, and stated that in any ordinary real estate transaction it would be necessary to ascertain the value of the property at the time the option was to be exercised. They immediately insisted that the contracts involved had for their purpose something more than to prescribe the terms of an ordinary real estate bargain and sale; that when Cuba was under Spanish sovereignty church and state were combined and the state assumed to administer church properties, including the properties in question, and, inasmuch as the Government was bound to maintain the church establishments, the Government of Spain annually devoted about \$500,000 to the maintenance of the church establishments in Cuba. The church authorities adjusted the affairs of the church to this income, and established not only places of public worship, but hospitals, orphanages, schools, and homes of religious orders, thereby meeting the necessities and expectations of Catholic communities. Upon the withdrawal of Spanish sovereignty from Cuba the necessities of these institutions continued, although church and state were immediately separated and the income of the church from the state dropped. The civil authorities, prompted by what was thought to be the best public policy, took over the censos held by the church on private property, allowing the church 36 cents on the dollar therefor. That the necessities of the Government required the use of a large portion of the property covered by the present contracts, especially the building used by the Spanish Government and ever since as a custom-house. There were numerous other matters calling for adjustment by reason of the separation of church and state in Cuba, and the contract entered into

by the military government was intended as a final and conclusive settlement of all matters and complications arising by virtue of the separation of the church and state; that while the settlement was intended to be definite and certain, it took the form of an option for the reason that no one knew what the future revenues of the Republic would be, and the question arose as to the wisdom of burdening the oncoming Republic with an absolute obligation; that the friends of Cuba were apprehensive that the Republic's greatest danger would come for lack of revenues and that a fear existed that the Republic might be wrecked on its second budget; that at the time the contract was entered into the permanent tariff law of the Republic had not been enacted and if, when enacted, the revenue was not sufficient it would be necessary to have recourse to direct taxation, which is unpopular in Cuba, and no administration would care to attempt such a revenue measure; therefore the optional clause was inserted. The purpose of the clause being to enable the Republic to avoid default on an absolute obligation, and the form used was adopted in lieu of the more specific declaration of its purpose which might injure the credit of the Republic by announcing, at the moment of its establishment, that it was unwilling to assume absolute obligations.

In short, the position of the Church is that if the Government of Cuba became financially able to make this purchase, then the stipulated payments were to be made, the sole purpose of the option being to relieve the Republic from embarrassment if lack of revenues made it impossible to carry out the contract.

Neither Monsignor Aversa or Bishop Estrada participated in the negotiations leading up to the entering into of the contract. These negotiations were conducted by Monsignor Sparretti, at that time bishop of Habana, assisted by Father Broderick, at that time coadjutor bishop of Habana.

The negotiation was conducted on behalf of the military government by Brig. Gen. Leonard Wood, and I repeat what was said in his civil report for the year 1901 with reference to this contract:

[Civil report of Brig. Gen. Leonard Wood, military governor of Cuba, 1901, vol. 1, p. 47.]

After protracted discussions, the bishop of Habana and the military governor came to an agreement as to the value of the real property of the church in the bishopric of Habana. * * * * The real property consisted principally of some large public buildings and lands in the city of Habana. The value thereof was appraised by expert appraisers.

This agreement was embodied in a formal document in which the state was guaranteed an option to buy the real property at the value agreed at any time within five years from the date of the agreement; and until such time as the state should buy it was agreed that it should pay an annual rental at the rate of 5 per cent on the accepted value of the property which the Government retained the use of. * * * This settled definitely and for all time the much disputed question of church property in the bishopric of Habana.

As above stated, negotiations are now in progress concerning the property of the archbishopric of Santiago. It is believed the matter will be settled at an early date in the coming year.

I consider this settlement of the question of church property as most important and one which will remove from the coming Cuban Government a great and fruitful source of annoyance.

The position of the Roman Catholic Church in Cuba during the American occupation has, to a certain extent, been a trying one, as it found itself under entirely new conditions, incident to the severance of those relations which had formerly existed in Cuba between church and state. The attitude of the

church, however, has been one of cooperation with the military government in the work it has had to perform in Cuba, and the relations existing have always been harmonious and friendly.

In his civil report for 1902, General Wood, with reference to this settlement, says:

[Civil report of Brig. Gen. Leonard Wood, military governor of Cuba, 1902, vol. 1, p. 159.]

The new government has a perfectly simple proposition to deal with, and what at one time looked like a serious and vexatious question has been equitably adjusted.

An examination of the contracts with reference to ascertaining the intention of the parties shows that the contract of October 23, 1901, between the military government of Cuba and the Catholic Church recited claims made by the church in relation to property occupied by the government and formerly in the hands of the church; the appointment of a commission to study such claims; the report of said commission in favor of the church and the consequent recognition of the church rights in the property specified. The claims of the church were of three different kinds:

- (a) For buildings occupied by the government and damages for their occupation.
- (b) For church censos collected by the government and damages for such collection.
- (c) For church buildings destroyed, and general claims for occupation.

The value of the property in question was determined by mutual agreement in the contract, the principal item of buildings in Habana occupied by the government being assessed at \$1,499,550. The instrument then covenants in regard to four different matters:

(1) *Indemnity*.—The Cuban Government agreed to pay:

(a) The sum of \$187,443.75 as indemnity for the occupation of church property in Habana from January 1, 1899, to July 1, 1900, i. e., 5 per cent annually on the assessed value of \$1,499,550. This sum was stated to be payable in four installments, on the 1st days of July, August, September, and October, 1901.

(b) The sum of \$32,426.09 collected by the Cuban Government between January 1, 1899, and July 1, 1901; on censos belonging to the church, this sum to be payable November 1, 1900.

(c) The sum of \$60,000 as indemnity for the use and destruction of the Sancti Spiritus Church, for the land on which the same was located; for release of the rights of the church to certain property in Trinidad, and in satisfaction of other claims for occupation. This sum was payable in twelve installments, beginning July 1, 1901.

(2) *Lease of buildings*.—The buildings in Habana above referred to were leased by the church to the Cuban Government for five years, beginning July 1, 1901, at an annual rental equivalent to 5 per cent of the assessed value of \$1,499,550, payable in monthly installments.

(3) *Sale of censos*.—The church sold to the Government a large number of censo annuities in the Habana diocese, created in favor of the church and held by the Government, for the sum of \$500,000, payable in twelve monthly installments, beginning July, 1901, with \$3,645.83 interest on installments due.

(4) *Option of sale*.—The church agreed to sell to the Government

before July 1, 1906, the property leased in the contract at the valuation fixed by the contract, but agreeing to deduct in case of such sale 25 per cent of the rental paid prior thereto.

On May 16, 1902, by a new contract with the military government, the church corrected certain errors in the list of censos as expressed in the contract of October 23, 1901.

A further contract of January 11, 1902, between the military government and the Catholic Church also recited the claims of the Catholic Church, the appointment of a commission for the study of the same, and the report of the commission. The contract was one of sale and option:

(1) *Sale*.—The censos annuities in the archdiocese of Santiago de Cuba, created in favor of the church and held by the Government, were sold by the church to the Government, and all claims for the occupation of church buildings, etc., were renounced. The consideration was \$75,000, payable in January and February, 1902:

(2) *Option of sale*.—The church agreed to sell to the government of the island all property in the archdiocese of Santiago de Cuba owned by the church and occupied by the government for the sum of \$535,000, payable before June 30, 1906. It was agreed that the government pay interest at the rate of 3 per cent annually upon this sum until the consummation of the sale, the expiration of the option, or the express renunciation of the same.

The military government of Cuba dealt with said properties as though their acquisition by the government was fixed and certain.

The custom-house was remodeled and the Academy of Sciences rebuilt. The government of intervention expended the following sums on the Habana buildings:

Custom-house	\$74, 228. 02
Academy of Sciences	38, 299. 49
University and institute	1, 165. 80
40 Cardenas street	207. 00
39 Obrapia street	826. 29
Total	114, 726. 60

The amounts paid to the church by the military government between July 8, 1901, and May 19, 1902, for indemnities, purchase of censos, rent, and interest from January 1, 1899, to July 1, 1902, under the various contracts made a total of \$951,236.98.

The military government turned over to the Cuban Republic the sum of \$689,191.02.

An examination of the acts of the Cuban Government since the establishment of the Republic leads to the conviction that at no time has there been any variation in the intention to conclude the purchase according to the terms of the option, and that the failure to make the purchase is to be ascribed solely to the apathy of the Cuban Congress.

The authorities of the Republic and those of the Catholic Church on July 14, 1903, made a contract modifying the contract of October 23, 1901, in so far as it related to the boundaries between the Academy of Sciences and the adjoining church—friction having arisen in regard to a doorway—and the option of the purchase of the building was carefully affirmed.

In his regular message to Congress of November 7, 1904, President Palma stated:

The lease of the buildings which were formerly the convents of San Francisco and Santo Domingo expires within twenty months. The lease gives us the right to purchase said buildings for the sum of \$1,431,000 or return them to the church. If there is no intention to purchase them, it becomes necessary to find proper quarters for a new custom-house and institute. Whatever action may be taken in this respect will necessarily cause a large expenditure.

In another message of April 3, 1905, President Palma stated:

As an instance of one of the many serious obligations which must be borne in mind, it is sufficient to remember that the lease of the San Francisco and Santo Domingo buildings, occupied, respectively, by the custom-house and the Institute of Habana, expires in July of the coming year. If within the next fifteen months—counting from date—proper quarters are not provided for the installation of the aforesaid establishments, we will find that the lease has expired and we shall be at the mercy of the circumstances. Under the impression that Congress, having full knowledge of the requirements which affect public administration, should proceed to remedy same with preference over all other projects demanding new expenditures, and as the matter should not be treated in detail in this message I shall do so in a special message as fully as the importance of this question demands.

This special message, however, was never prepared.

On November 5, 1905, President Palma again insisted in his regular message, as follows:

The lease and option to purchase the following property belonging to the Catholic Church expires on the 1st of July of the ensuing year, according to the contract entered into between the representatives of the church and the government of intervention on the 23d of October, 1901:

	Value.	
	Sale.	Rental.
Former convent of San Francisco, now occupied by the new custom-house	\$1,080,000.00	\$54,000.00
Former university and institute	351,000.00	17,550.00
Academy of Sciences	50,000.00	2,500.00
Fire station (Obra pia to the rear of San Felipe)	15,000.00	750.00
40 Cardenas street	3,550.00	117.50
Total	1,499,550.00	74,977.50

This matter has been reported to Congress by me in previous messages, and I take the liberty to mention it in the present one, considering the short time lacking for the expiration of the lease. It was stipulated therein that the Government had the right to purchase the aforementioned property during the five years of the lease, at the price above mentioned, with a reduction of a sum equivalent to one-fourth of the rental paid from July 1, 1901, up to the date of purchase. It is therefore urgent to determine one way or another, because if it is decided not to purchase the aforementioned buildings it becomes necessary to provide in time proper quarters for the custom-house, institute, academy of sciences, etc.

The Cuban Congress paid no attention to the President's recommendation. It is to be observed, however, that this was not unusual—that party struggles made it difficult to obtain quorums to hold sessions, and that the few laws passed were mostly local appropriation bills responding to the insistent efforts of the representatives of the respective localities.

On the expiration of the lease and option the Cuban Government not only made no attempt to seek other quarters for the public offices involved, but, on the contrary, on June 30, 1906, executed a new con-

tract with the Catholic Church. By this contract the lease of the Habana property and the option on the Santiago property were expressly extended for a period of six months from July 1, 1906, with the privilege of extending the same for a further period of six months after January 1, 1907.

During the five years from 1902 to date the Republic of Cuba has expended the following sums in repairs upon the rented property:

Custom-house	\$32,829.92
Academy of sciences	7,874.01
University and institute	135.00
40 Cardenas street	28.17
Total	40,867.10

A portion thereof was taken from the appropriation for custom-houses, a portion from the appropriation for the construction and repair of public buildings, and the remainder from surpluses in various departments.

I do not attach much importance to the omission of the Cuban Congress of 1906 to appropriate funds for the payment of said properties. That Congress was called upon to deal with the stirring incidents leading up to the revolution of August, 1906, and was in session when the revolt broke out.

Candor compels me to state that my understanding of the arrangement and agreement leading up to the settlement of the church property question in Cuba is that the Government is to purchase the property at the values stipulated in the contract, and that the option of withdrawal is not to be exercised if the Republic is financially able to make the payments. In short, that the option was not of *purchase* but of *withdrawal* from the obligations of an agreement to purchase at stipulated prices, in the event the Republic was unable to pay for want of funds. This understanding was the one I received as law officer of the Bureau of Insular Affairs at the time the contracts were signed. The matter was handled and disposed of in Cuba, and did not come before me as law officer; but the subject was of interest and importance and was more or less discussed in the Bureau, with the result that I received and retained the impression stated. I know the arrangement was always spoken of as a "settlement" and as though it was definite and conclusive. If such were the intention and agreement of the parties to the transaction, there exists a moral obligation that can not be avoided by technical construction. Permit me to suggest that you confer in regard thereto with Secretary Root and General Edwards, who are much more familiar with the subject than I am.

THE USE OF SAID PROPERTIES BY THE GOVERNMENT OF CUBA.

The building and ground known as the "custom-house property" has been devoted to custom-house use for the past fifty years or more, and the business institutions of the city of Habana have congregated and consolidated in and about that location until now it is a practical necessity that the custom-house should be there. It is the best location by far for the custom-house, and if it is not secured by carrying out the contract it will be necessary to lease it or immediately expropriate it.

The building was overhauled and rearranged for the accommodation of these departments and affords reasonably good accommodations. To move these departments, with their files, documents, books, etc., would greatly interfere with public business and create confusion that would entail much trouble and serious consequences. It would take several years to build new buildings of the size and character required, and make necessary an investment much larger than the purchase price under the contract, although the new buildings would be better than the old one. It is safe to say that we are obliged to stay in this building until we can erect a new one, and the new one should be on the site of the present structure.

The property used as the Academy of Sciences is also required by the state. The building that was on this land at the time the contract was entered into was demolished and a new structure at a cost of \$38,299.49 erected. This building is a part of a plan, and the officials of the academy require the remainder of the building called for by said plan, which is to be built on a portion of the ground included in this contract. This academy is doing good work, and if we do not secure this property by compliance with the contract the land and building should be expropriated.

Up to the present time the building known as the "Old University" has not been of much use to the Government, but can now be utilized to advantage.

The post-office department, the Habana city post-office, the central office of the Government telegraph system are all in one building. They have outgrown this building, and, in addition, the structure is in very bad shape and liable to fall down. In addition, I am seriously contemplating extending the Malecon along the water front through the city, in order to give better access to the water front. If this is done, the building now occupied by the post-office would have to be demolished. If we get the university property, I would immediately move the post-office department and telegraph service into the old university building, leaving the city post-office where it is at present until a new post-office could be built in some other location. The remainder of the university property is used as an institute (high school) for the city of Habana. Its use is required until a better structure can be erected, and thereafter it can be used for school purposes or other governmental services.

VALUE OF THE PROPERTY.

Neither the contention of the church authorities nor my personal recollection relieves me from responding to your request for information as to the present value of the property.

The properties covered by the contract of October 23, 1901, and the stipulated values are as follows:

Custom-house	\$1,080,000
University and institute.....	351,000
Academy of Sciences.....	50,000
House 39, Obrapia street.....	15,000
House 40, Cardenas street.....	3,550
Total.....	1,499,550

The contract provides that 25 per cent of the amount paid for rent of these properties by the Government is to be deducted from this

price in event the purchase is completed. Twenty-five per cent of the rent paid to June 1, 1907, is \$110,904.31, leaving a balance of \$1,388,645.69.

The principal item in this list is the building and ground of the Habana custom-house. This property borders on the waters of the harbor, and between the building and the water is the "littoral," or shore line. The "littoral" consists of a strip of land 40 meters wide from the high-water line to the landward. Under Spanish law this strip belongs to the Government, but may be conveyed to individuals, associations, etc. The "littoral," or water front, at this particular point is of great value, and the objectors to this purchase place much stress on the allegation that the "littoral" does not belong to the church. It will be recalled that prior to entering into the contract the question of ownership was determined by a judicial commission appointed by the military government. I am unable to find the report of this commission; it must be with the files of the military government now deposited with the Bureau of Insular Affairs, War Department, Washington. However, the question of ownership is determined by the recital of the contract, as follows:

Translation.

The honorable military governor of Cuba, representing the military government of the United States in the island, in view of the recommendations of the Commission appointed in the matter, recognize the rights of dominion of the Roman Catholic Church in Cuba over property of ecclesiastical origin possessed by the said church in the diocese of Habana, as well as the following:

(A) The building formerly known as the Church Convent of San Francisco, with the ground on which it is built, as well as the right it may have to the "littoral" and to the other buildings and improvements constructed on said ground and at present used by the Government for the custom-house of the port of Habana. The said building and ground annexed thereto comprise the entire block bounded by Oficios street, Churrucha alley, Muelle de Caballeria street, and San Francisco plaza, and measures 115 meters 10 centimeters, frontage on the first-named street, 77 meters 40 centimeters on the Churrucha side, 102 meters on the side facing the wharves, and 56 meters 90 centimeters frontage on the San Francisco plaza, making a total area of 7,129.75 square meters.

The Franciscan monks commenced the construction of these edifices in the year 1757 and remained in peaceful possession of this property until the 15th of November, 1841, when the same was confiscated.

Old maps in the department of public works show that at the time the building now used as a custom-house was erected (1757) the water line was close to the structure, the foundation being as near the water as prudence permitted. In fact, the only land between the building and deep water was a mud flat, submerged by the tide, and the wall toward the sea was built on piles. Apparently this establishes that at that time the church owned the then littoral. The first fill was made between 1762 and 1800, and made a strip of land running the entire length of the building, about 20 meters (65 feet) wide. On this land was erected an addition to the original structure. This addition covers practically all of the fill then made. One side of this addition was the old structure; in fact, it is a "shed" addition built for the purpose of extending the ground-floor space of the custom-house, and is used in connection with the custom-house business. In 1870 another shed addition was built on the sea side, adjoining the first shed extension. A subsequent fill backed up the waters of the bay and created a strip of land about 16 meters (50 feet) wide between the custom-house and the bulkhead line, which is now inclosed

by an iron fence, and the space thus inclosed is paved and used for custom-house purposes, such as the storage of cargo, and for the passage of carts and persons to and from the wharves. The Government wharves adjoin this piece of land, but are outside of the bulkhead line. (See map herewith transmitted.)

Referring again to the boundaries set forth in the extract from the contract hereinbefore quoted, I have conferred with Lieut. Col. W. M. Black, U. S. E. C., adviser to the department of public works, and he advises me that the boundaries therein mentioned describe the land covered by the building as it is to-day, including the two shed additions and the greater portion of the ground made by the first fill.

The church authorities claimed the strip of land between the custom-house building and the bulkhead line at the time the negotiations were had in 1902, and now insist that their right thereto was admitted and established by the stipulation of the contract recognizing the title of the church to—

the building formerly known as the Church Convent of San Francisco, with the ground on which it is built, as well as the right it may have to the littoral and to the other buildings and improvements constructed on said ground, and at present used by the Government for the custom-house of the port of Habana.

It seems clear that the land created by the first fill was acknowledged to be the property of the church, for not only was the structure erected thereon, but the contract with the military government especially includes this land in describing the church structure. As to the land produced by the second fill, it is not so clear, for there are no structures thereon, the improvements being the pavement and fence, but it is used for custom-house purposes exclusively.

In attempting to ascertain the present market value of this property by inquiry of private individuals I encountered a decided aversion to putting a price on another man's property. I encountered the same aversion in Panama and doubtless the Secretary of War became familiar with it in the Philippines. In Panama it was practically impossible to fix the value of land by private inquiry. This difficulty exists, I think, in all Latin countries. In those countries more than in others the price of property is controlled by the necessity or credulity of the purchaser and the whim or fantastic ideas of the prospective vendor. If you attempt to buy a piece of land, the first inquiry is: What use do you intend to make of it? and the value is fixed by the prospective or speculative values after applied to such use, and also there is taken into consideration whether or not there are other locations available for the desired purpose. The idea seems to be, what is the land and location worth to the *purchaser* instead of to the *owner*—and then follows the question: How much is the purchaser able and willing to pay? This is the ordinary and well-received procedure, and outside parties naturally are adverse to interfering with what is considered the right of others to secure favorable terms. I called upon Monsignor Aversa to furnish certificates of value from private persons, and from the character of his response I judge he encountered the same difficulty.

My request to Monsignor Aversa to supply evidence as to present value of the property was by letter, as follows:

Secretary Taft, shortly before leaving Habana and after his interview with you and Bishop Estrada, requested me to ask you to have your attorneys secure

affidavits as to the present value of the properties covered by the agreements between the Roman Catholic Church and the Government of Cuba.

It has been represented to the Secretary that the present value of said property is not as great as it was at the time of the appraisal in 1901. The Secretary's informants alleged that the increase of value in Habana real estate is not general throughout the city, but is confined to detached locations, and that the properties in question do not present instances of increased value, but on the contrary, have decreased in value, and specific mention is made of the Aduana, which, it is claimed, had decreased in value because of the elevated railway. This representation having been made to him, the Secretary feels that he should be further advised in such form as to have the evidence on record; hence his request for the affidavits.

In response Monsignor Aversa called and stated the difficulty or rather impossibility of securing affidavits fixing any value whatever; that no one would be willing to swear that a piece of property was worth a fixed price, and that he and his attorneys were surprised that anyone should think such course could be pursued. I explained to him that such affidavits were common in the United States, but that increased his surprise. He handed me a letter and a number of certificates from well known and reliable citizens. Subsequently he delivered a second letter with a definite appraisal and a written offer to purchase the property at prices in excess of the prices fixed by the contract. This offer comes from Sir William H. Redding, a wealthy resident of Habana, who is financially able to make the purchase. Redding states that the United Fruit Company is associated with him in the offer to purchase.

I inclose copies of the two letters from Monsignor Aversa and the documents presented with them.

The appraisements fixed by the writers of the letters presented by Monsignor Aversa, with his second letter, are as follows:

	Custom-house.	University and institute.	Academy of Sciences.	Total.
Joaquin de Freixas y Pascual	\$1,600,000	\$425,000	\$150,000	\$2,175,000
Narciso Gelats	1,500,000	400,000	75,000	1,975,000
Francisco L. del Valle	1,300,000	400,000	70,000	1,770,000
Juan Pablo Fofiarely	1,200,000	380,000	60,000	1,640,000
Dionisio Velazco.....	1,782,500	381,350	108,040	2,271,890
Average valuation	1,576,500	397,270	92,608	1,966,378

In addition, there is a letter from Sir William H. Redding, who offers to buy all the Habana property at the price mentioned in the deed, paying a total sum of \$1,499,550.

None of the above appraisements include the valuation of house 39, Obrapia street, valued in the contract at \$15,000, and house 40, Cardenas street, valued in the contract at \$3,550.

In addition to the request of Monsignor Aversa to submit evidence as to the present values of the properties in Habana, I made personal inquiries of a number of persons and encountered the difficulty hereinbefore mentioned, viz, an unwillingness to give figures as to values. I then determined to select three men with well-established reputations for ability and fair-mindedness, and after due inquiry selected Doctor Berriel, rector of the University of Habana; Dr. Leopoldo de Sola, the leader of the Habana bar, and a man of great wealth, and Señor José Antonio Pichardo, president of the chamber of the supreme court of Cuba.

I invited these gentlemen to a conference and asked them if they would make an appraisal of these properties. The president of the chamber of the supreme court stated that prior to occupying his present position he had lived in Camaguey, and that he was not sufficiently familiar with prices of real estate in Habana to give an expert opinion. The other gentlemen expressed their willingness to comply with the request. The rector of the university suggested that he secure the assistance of the professor of engineering and the professor of architecture in the university, and his suggestion was adopted. I thereupon addressed a letter to Señor Sola and to Doctor Berriel, putting the request in writing. I inclose copy of said letters and the responses thereto. It will be noted that the rector of the university turned over the matter to eight members of the university faculty, and did not participate in the appraisal himself.

The values fixed by Señor Sola are as follows:

Custom-house	\$1,300,000
University and institute	350,000
Academy of Sciences	90,000
House 39, Obrapia street	14,000
House 40, Cardenas street	1,500
Total	1,755,500

This appraisal is joined in by Messrs. Tomás Fernandez and José García, two prominent merchants and property owners in the city of Habana.

The university committee appraise the values, without including the littoral or the expense and inconvenience of transferring to other quarters, as follows:

Custom-house	\$640,000
University and institute	300,000
Academy of Sciences	50,000
House 39, Obrapia street	12,000
House 40, Cardenas street	3,500
Total	1,005,500

I also invited Mr. William L. Wood, an American citizen and property owner of Habana, to give an estimate of the value. His estimate, as shown by the letter I inclose, is as follows:

Custom-house	\$1,500,000
University and institute	360,000
Academy of Sciences	75,000
House 39, Obrapia street	22,000
House 40, Cardenas street	3,000
Total	1,960,000

On May 16, 1907, I also addressed a letter to Mr. H. B. Leavett, editor of the Habana Post, copy inclosed, inviting him to submit evidence as to the value of the church property, but have as yet received no response. I inclose, however, a list of the issues of the Habana Post containing articles regarding the contemplated purchase of this property.

The average valuation, by the 10 men who assessed the property independently, is, therefore, \$1,855,794.

If these values are considered in connection with those of the eight members of the university faculty, the average valuation by the eighteen gentlemen is found to be \$1,477,885.56.

The amount due on these properties, under the contract, on June 1, 1907, after deducting 25 per cent of the total rents paid (as provided for in contract) is \$1,388,645.69.

ALTERNATIVE COURSES.

The suggestion has been made a number of times by persons opposed to the carrying out of the contracts by the provisional government that the option and lease should be extended for a period of two years, and thereby give the Cuban Congress an opportunity to determine the matter. I discussed this proposal with the church authorities and found that they are unwilling that further delay be had, and insist that the matter should now be brought to final conclusion. They allege that the necessities of the church will not permit such delay, and call attention to the fact that many of the church edifices and religious institutions are in great need of repair; that the revenues of the church are not sufficient to enable them to make these repairs; that many of their structures were greatly damaged by the cyclone of last fall, and that the suggested delay would work them irreparable injury. There is no doubt that many churches of the Habana diocese are greatly in need of repair, and if the proceeds of the sale are to be devoted to such repair, public benefits would accrue that are worthy of consideration in determining whether or not the contract should be carried out.

The church authorities also call attention to the annoyances and difficulties incident to Congressional action in Cuba, more especially to the difficulty of securing a quorum under the constitutional provision requiring two-thirds of the membership of Congress to be present at the daily meetings, and the failure of the Cuban Congress for two years to pass the annual budget providing for the ordinary expenses of the Government.

This reference to the failure of the Cuban Congress to convene and the omission to pass the regular budget caused me to investigate the matter, and I found the facts to be as follows:

The Cuban constitution, article 54, contains the following provision in respect to the Houses of Congress:

Neither shall they open their sessions without two-thirds of the total number of their members being present, nor shall they continue their sessions without an absolute majority of members being present.

The absence, here or elsewhere in the Constitution, of any provision authorizing a smaller number of members than the quorum specified in article 54 to adjourn from day to day and take steps for compelling the attendance of absent members will immediately be noted. In other words, the constitution provides within itself no means for compelling the attendance of the "two-thirds" necessary to open sessions of Congress and the "absolute majority" necessary to continue sessions. The problem of securing these required quorums does not appear to have been a troublesome one until after the elections in the early spring of 1904 (first renewal of representatives), which, due to alleged frauds, resulted in many contested seats. Congress met on April 4 following the elections (fifth legislative term) and did not adjourn until October 20 of the same year, a period of one hundred and ninety-nine days. The minority of the lower house, in its efforts to force a compromise as to contested seats, generally

restrained from attending the sessions of that body. During the one hundred and ninety-nine days this term continued there were eighty-seven attempts at daily sessions of the lower house, of which seventy failed for lack of quorum, seventeen sessions only being held. These conditions were repeated in the seventh legislative term, which commenced on April 3, 1905, and ended October 31, 1905—two hundred and eleven days—during which period there were one hundred attempts to secure daily sessions of the lower house, of which sixty-four failed through lack of quorum; and again in the eighth legislative term, commencing November 6, 1905, and ending March 31, 1906—one hundred and forty-five days—during which there were ninety-three called daily sessions of the lower house, of which sixty failed for lack of quorum.

During the period referred to, the showing by the Senate as to sessions held is similar to that of the House. During the fifth legislative term, April 4 to October 20, 1904, but eight daily sessions were held during the month of April and but three during the month of May; in each of the months of June and August but one daily session was held, and in the month of July the Senate did not meet at all. During the whole period from April 4 to October 20, 1904, there were but twenty-six daily sessions of the Senate which commanded the attendance of a quorum. During the sixth legislative term, November 3, 1904, to March 10, 1905, the Senate held its sessions with like irregularity, the same reasons of disagreement between the parties that existed during the previous term continuing. With intervals at times as long as fourteen and eighteen days, the Senate held during the five months of this term but twenty-five sessions. The seventh legislative term, April 3 to October 31, 1905, was coincident with the inauguration of the electoral campaign of that year for the choice of President and one-half renewal of the Senate and House. During this period new members were appointed to President Palma's Cabinet, and the Moderate party was organized. The Moderate party came to be the minority party in the Senate, due to the Santa Clara Province Republicans going over to the Liberals, upon the happening of which the Moderates resorted to the tactics previously employed by the Liberals to prevent the holding of sessions by the Senate. Despite the efforts of the Liberals to keep the Senate open, during the five months of this term but twenty-three daily sessions of that body were celebrated.

The sessions of both Houses proceeded with regularity during the legislative term of 1906, due to the large Moderate majority in each.

To summarize from the foregoing, it may be stated that the two Houses of Congress have not functioned normally except during the first four legislative terms corresponding to the years 1902 and 1903 and the first term of 1906. As to intervening terms, several instances in addition to those mentioned above, involving shorter periods of interruption of the sessions of both Houses, might be cited.

There is to be noted also the different constructions of article 54 which have been advanced by the two Houses of Congress. The view adopted by the Senate in the earlier stage of the controversy as to the contested seats noted above (August, 1904) was that the "two-thirds" quorum specified in article 54 was necessary only for the opening day of a legislative term, and that for the daily meetings thereafter occurring an absolute majority was sufficient. The Senate also held that

the "two-thirds" and the "absolute majority" specified in said article 54 were to be computed with reference to the number of members who at that time composed the respective Houses (Dolz quorum). This also was the construction of the political elements which afterwards organized themselves into the Moderate party and which at the time this construction was adopted had control of the Senate. The House of Representatives, on the contrary, held that the "two-thirds" quorum was necessary to open each day's session and that after its formal opening such session could continue with only the "absolute majority," and that the "two-thirds" and the "absolute majority" were to be computed with reference to the total authorized membership. This also was the construction of the Liberal party and is the construction for which that party contends to-day. Pending the controversy between the two Houses on this point, the supreme court considered a test case which had been made up and sent to it, and in the opinion which it pronounced sustained, in the main, the contention of the Senate, but refrained from passing upon the question as to whether the quorums were to be computed with reference to actual membership, for the reason that this question did not arise on the facts submitted to it. The Liberal party does not accept this decision of the supreme court, and when the Moderate party became the minority party in the Senate it adopted the view of the Liberal party as to the numbers necessary to constitute a quorum and endeavored thereby to prevent the holding of sessions of that body.

In order that you might be fully advised in this matter and ascertain definitely the views of the Church authorities, I wrote Monsignor Aversa a letter, as follows:

HABANA, CUBA, *May 31, 1907.*

MY DEAR MONSIGNOR: In the event the provisional government of Cuba should consider it inadvisable to avail itself at this time of the option to purchase the property situated in the bishopric of Habana, covered by the contract between the military government of Cuba and the authorities of the Roman Catholic Church, dated October 23, 1901, and extended by agreement with the Republic of Cuba in June, 1906, would the church authorities be willing to extend said option and the lease under which the property is now occupied by the government for a period of two years.

Are the church authorities willing that the provisional government should exercise the right created by the contract of October 23, 1901, to purchase the custom-house property and the property known as the Academy of Sciences at the prices stipulated in said contract, or to extend said option and lease as to these two properties for a period of two years?

Very truly yours,

CHARLES E. MAGOON,
Provisional Governor.

Monsignor JOSEPH AVERSA,
*Archbishop of Sardes,
Apostolic Delegate to Cuba and Porto Rico,
Obispado, Habana 58, Habana, Cuba.*

His response thereto was as follows:

HABANA, *June 1, 1907.*

YOUR EXCELLENCY: I have been greatly honored by the receipt of your favor of yesterday, in which you ask whether in the event that the Republic of Cuba fails to make use of the option to purchase certain property of the Roman Catholic Church on or before June 30, 1907, as per agreement entered into, the Roman Catholic Church would extend said options and agreement for a further period of two years for all or for part of the property. In reply, I have the honor to say that such extension for any part or all of the property is not

practicable, as offers to purchase are pending on the refusal of the government to purchase, in which case the property in question will at once be sold to private parties.

I have the honor to remain, your obedient servant,

GIUSEPPE AVERSA,
Archbishop of Sardes, Apostolic Delegate.

To His Excellency CHARLES E. MAGOON,
Provisional Governor of Cuba, Habana.

The church authorities are well within their rights in taking the position that definite determination should be made. The Government has had more than six years in which to consider the proposition. The option has been extended twice. The Government is able to pay the purchase price. The church needs the money and asserts that it has a purchaser to whom it can sell on more favorable terms than the contract gives them.

There are other reasons than those advanced by the church authorities why the provisional government should conclude this matter one way or the other.

It is common rumor in Habana that when the question of completing the purchase of this property was pending in the Cuban Congress a cabal was formed by a number of persons to fight the measure in and out of Congress for the purpose of forcing the church authorities to pay \$400,000 to end the opposition.

The present attempt to complete the sale has revived this rumor and caused two variations of it—one, that the present opposition is made by the parties who composed the opposing syndicate when the matter was before Congress; two, that the \$400,000 is to be paid if the sale is completed to Consul-General Steinhart, who, it is insinuated, will divide the money so paid with the provisional governor. I feel obliged to report said rumor to you, but I am glad to add that so much of said rumor as involves the American consul-general and the provisional governor receives no credence from the public, individually or collectively. Doubtless there are in this community, as in every community, persons so constituted that, the charge being made that a certain condition of facts affords opportunity for graft, immediately and conclusively presume that officials so situated as to take advantage of such opportunity will do so. This is disagreeable and embarrassing to the officials of the provisional government and will be more so to the officials of the new Cuban administration, and it appears to me to be the duty of the provisional government to make some disposition of this matter which will be final and not relegate it to the forthcoming new administration. It is one of several troublesome questions pressing for determination in Cuba that might involve the new Government in difficulties that would embarrass it greatly, and it is good policy to promote the stability of the new Government by getting these troublesome questions out of the way.

Another proposition which has been made is that the Government definitely and finally abandon both these contracts and notify the church authorities of that determination, and thereupon either purchase new property and erect new structures—continuing the occupation of the church property, with or without the consent of the church, until the new structures are completed, or expropriate such

of the church property as is desired by the State—continuing the occupation until the expropriation proceedings are concluded.

I think the suggestion of seeking a new location for the custom-house should not be given consideration, for no other location exists which is equally advantageous—the Government wharves about the present custom-house property, and the public necessity and convenience make the present location preeminently desirable.

It would also be unwise to abandon the present location of the Academy of Sciences, for the reason that the Government built on said ground a new building at a cost of over \$38,000, and which is especially designed for the uses of the academy.

I doubt if we could get immediately other property equally adapted for the high school and move into such other structure and put it in shape for school purposes by the time school will open in September.

If you determine to abandon the existing contract for the Habana property, I recommend that the provisional government be directed to proceed forthwith to condemn the custom-house property, the property known as the Academy of Sciences, and the old university property. The reason for including the old university property is that the piece of ground on which the Academy of Sciences stands is part of what was originally the old university location, and I believe that the amount awarded for damages to the part not expropriated would be sufficiently large to make it wise for the Government to acquire the entire tract.

It is, of course, impossible to tell what prices would be fixed by the expropriation proceedings.

The foregoing presents for your consideration everything which I have been able to secure bearing on the contract for the sale of the properties in the city of Habana. Many of the facts herein set forth are already known to you, but I thought it would save you time and suit your convenience to have the entire matter presented in one document.

It has been impossible to extend this investigation to include the properties covered by the contract dated January 11, 1902. Said contract refers to three appendices attached thereto. These include over 300 different pieces of property, all situate in what was the archbishopric of Santiago in 1842. You have these contracts at the War Department, and reference thereto will show that the descriptions of the properties are extremely deficient, and the records at Santiago are in bad shape—many books and documents having been burned, taken away, or otherwise destroyed. It will be very difficult, if not impossible, to verify these lists sufficiently to identify the property. Under these conditions I think it best to deal with these contracts separately, and dispose of the Habana contract before taking up the Santiago one.

Awaiting your final determination and direction, I am,
Your obedient servant,

CHARLES E. MAGOON,
Provisional Governor.

The SECRETARY OF WAR,
Washington, D. C.

(8 inclosures.)

INCLOSURE No. 1.—*Opinion of fiscal of supreme court.*

HABANA, CUBA, *March 21, 1907.*

THE FISCAL OF THE SUPREME COURT OF CUBA,
Habana, Cuba.

SIR: The provisional government of Cuba has determined to carry out the agreements dated October 23, 1901, and January 11, 1902, respectively, between the military government of Cuba and the Catholic Church for the purchase of certain real estate belonging to said church and situated in the provinces of Pinar del Rio, Habana, Camaguey, and Oriente; which said contracts were extended by the authorities of the Republic of Cuba on the 28th of June, 1906.

Copies of said original contracts and the contract extending the same are herewith transmitted for the purpose of identifying property involved and such other information as they afford.

In carrying out said agreements it is necessary to ascertain by whom the deed of transfer should be executed in order to convey good and sufficient title to said real estate to the Republic of Cuba.

It is proposed, on behalf of the church, that the conveyances be executed by His Grace Joseph Aversa, Archbishop of Sardes, apostolic delegate to Cuba and Porto Rico, by virtue and in pursuance of a power of attorney granted Archbishop Aversa by the secretary of state of the Holy See. A copy of said power of attorney is herewith transmitted.

I have the honor, therefore, to request your opinion in writing on the following questions:

1. Whether the power of attorney (copy inclosed) combines the necessary requirements of authenticity and validity to execute a conveyance of real estate according to the laws by which the conveyance, under said agreements, are controlled.

2. Whether said power of attorney grants sufficient power (*a*) to sell and convey the property covered by said agreements, including that proceeding from religious orders situated in the diocese of Habana, Pinar del Rio, Cienfuegos, and the archdiocese of Santiago de Cuba; (*b*) to receive the purchase price thereof, and (*c*) to make the usual and necessary stipulations in conveyances of this kind and character.

3. If the power of attorney now held by Archbishop Aversa is sufficient and valid according to law, and whether it is also necessary for the prelates of the dioceses where the property to be conveyed is situated to join in the execution of the deeds in order that good and lawful title may be conveyed to the Republic of Cuba.

I wish you to understand that you are not bound by the interrogatories stated, and that you are at liberty to discuss and present any other questions involved in the matter of transfer.

Very respectfully,

Provisional Governor.

HABANA, *April 8, 1907.*

TO THE HONORABLE PROVISIONAL GOVERNOR.

SIR: To form an opinion regarding the matters mentioned in your communication of the 21st of last month it becomes necessary to remember, above all, the special capacity of the contracting parties between whom the sale transaction is to be effected, as per promise contained in the contracts of October 23, 1901, and January 11, 1902, extended by the one of June 28, 1906, as otherwise if we were to appeal to the ordinary rules of the law to resolve such exceptional case as the one in question we would be in danger of committing serious errors, and interrupt or prevent transactions reasonably deemed beneficial to the country by the Government.

If the Republic of Cuba, at present under the provisional administration of the United States, had diplomatic relations with the Holy See, all the agreements entered into by both powers to convey to the former the ownership of certain real estate and property rights on realty, would have to be made by means of a concordat and never by means of a public instrument before a notary; but as the Cuban Government does not officially recognize the international personality of his holiness the Pope, naturally when the occasion arises to enter into a contract with the Roman Catholic Church, it must be accepted as perfectly

legal and licit that each entity act as artificial persons—that is, subject to the rights and obligations in conformity with their constitution.

Now then, according to the theory generally followed by the canonists, the private ownership of the ecclesiastical property belongs to the churches and religious orders, without detriment to the eminent domain of his holiness the Pope, who consequently, in the same manner as the bishops, enjoys the right to alienate. By virtue of said doctrine, which allows the state to effect the proposed purchase contracting indistinctly with the apostolic delegate, in representation of the Pope, or with the bishops, duly authorized by his holiness, also required by the canonic laws, the Government should, in my opinion, require the prelates of the respective diocese wherein the property is situated, to appear before the notary in the capacity of sellers, in order to take advantage derived by their residence on the island and the fact of their being subject to the courts of the country, which would not be the case if the contract was made with the supreme head of the church, whose personal sovereignty and absence places him in fact and by law beyond our jurisdiction.

Of course that in view of the highly spiritual mission, the moral standing and inflexible discipline of the church not the slightest controversy is likely ever to arise in connection with this sale; but from a practical point of view such an argument in no way precludes the adoption of the method recommended, with the approval of Monsignor Giuseppe Aversa, whose presence shall in a like manner be indispensable at the time of executing the formal contract in order to give in the name of the Pope the proper authorization by virtue of the powers conferred upon him by the mandate of December 20, 1906, the original of which is to be exhibited and incorporated in the original instrument executed before the notary.

It is true that the power of attorney and the credential of apostolic delegate issued in favor of the archbishop of Sardes have not been properly legalized; but notwithstanding this omission, I consider both of these documents authentic, since they come from the Pope, who, although not exercising sovereignty over any territories, he is in fact considered and treated as a sovereign by Catholic nations and by others which are not, as the German Empire, which accepted his arbitration; because the requisite of the legalization is indispensable only in judicial controversies, but may be dispensed with in the conventional relations or those established by a compact or mutual agreement; because in the contracts first mentioned both the military government and the government of the republic recognized as authentic the documents issued without the signature of the secretary of state of His Holiness being legalized, which documents related to the legal capacity of the bishop of Habana, the archbishop of Santiago de Cuba, and the delegate Monsignor Aversa, who were parties to said contracts; because in view of the relations existing between the Catholic Church and the Kingdom of Italy, and the extraterritoriality accorded by the latter to the Pope, it is impossible to demand, unless we would renounce to enter into any agreement with him, that the documents issued by His Holiness or issued by his orders be legalized by Italian diplomatic officers; because an indirect authentication by means of a diplomatic representative of those accredited before the Vatican is not applicable to an entity reputed as a sovereign, who in no case would accept it but would repudiate it and desist of the sale already agreed upon; and lastly, because in the legalizations being required for the cases where documents are executed in a foreign country, this does not apply to the documents in question, because they do not come from Italy nor from any other country in view of the aforesaid extraterritoriality and nonexistence of the temporal power of the Pope.

As regards the origin of the properties to be alienated and omitting all reference to the ecclesiastical nature of the buildings and grounds of the convents, I do not think that the distinctions made in this particular, in the aforesaid instruments, are in the least tenable, nor can I satisfactorily understand why the agents of His Holiness ascribed to themselves the representation of religious orders, for whatever be the origin of said property the fact is that having been turned over to the church and registered in its name, no mention should be made now of those religious associations, and the conveyance of the properties which were originally theirs should be effected now according to article 20 of the mortgage law by the person who in the register appears to be the owner thereof, as undoubtedly has been understood by His Holiness in making no mention of said religious associations in the power of attorney conferred upon Monsignor Aversa.

In view of the foregoing statements, and returning herewith the documents

forwarded to me, I have the honor to recapitulate my answers to the questions submitted, as follows:

First. The power of attorney of December 20, 1906, as presented by Mgr. Guisepe Aversa, does not require legalization, nor could it be legalized, therefore it must be accepted as authentic and contains the indispensable powers to comply with the promise to sell to Cuba the church property, receiving the price therefor and stipulating the conditions and clauses usual and suitable for the purpose.

Second. The aforesaid mandate authorizes the archbishop of Sardes to effect the promised sale in representation of the Pope, to whom the eminent domain of the church property corresponds.

Third. The same power of attorney authorizes the apostolic delegate to make the authorization granted by His Holiness appear in the deed of sale.

Fourth. In view of the advantages mentioned in this communication, the Government should demand that Mgr. Aversa appear at the execution of the aforesaid public instrument in his capacity of apostolic delegate, to grant in representation of the Pope the authorization in question, and the bishop of the dioceses wherein the property is situated in the capacity of sellers, to whom or to whatever persons they may designate, the price of said property may be paid.

Fifth. The alienation shall only be effected in what exclusively refers to the property acquired by contract of October 23, 1901, and January 11, 1902, and which appears registered in the name of the church in the registry of property.

Sixth. The credentials of the apostolic delegate shall be inserted in the deed, adding the original power of attorney of December 20, 1906, to the original of the protocol; and

Seventh. It would be advisable to demand from the seller a certificate showing that the real estate alienated has not been encumbered during the time which has elapsed from the 23d of October, 1901, and January 11, 1902, or commission the legal adviser of the treasury department to ascertain at the registry whether there are any encumbrances on the property.

Very respectfully,

MANUEL VIAS, *Fiscal*.

INCLOSURE No. 2.—*Report of attorney for Treasury Department.*

HABANA, CUBA, March 26, 1907.

To the ACTING SECRETARY OF THE TREASURY,
Habana.

SIR: The provisional government of Cuba has determined to carry out the agreements dated October 23, 1901, and January 11, 1902, respectively, between the military government of Cuba and the Catholic Church for the purchase of certain real estate belonging to said church and situated in the provinces of Pinar del Rio, Habana, Camaguey, and Oriente, which said contracts were extended by the authorities of the Republic of Cuba on the 28th of June, 1906.

In carrying out said agreements it is necessary to ascertain by whom the deed of transfer should be executed in order to convey good and sufficient title to said real estate to the Republic of Cuba.

It is proposed on behalf of the church that the conveyances be executed by His Grace Joseph Aversa, archbishop of Sardes, apostolic delegate to Cuba and Porto Rico, by virtue and in pursuance of a power of attorney granted Archbishop Aversa by the secretary of state of the Holy See. A copy of said power of attorney is herewith transmitted.

I have the honor, therefore, to request that you obtain and forward to my office the opinion, in writing, of the attorney for the Treasury Department upon the following questions:

1. Whether the power of attorney (copy inclosed) combines the necessary requirements of authenticity and validity to execute a conveyance of real estate according to the laws by which the conveyance, under said agreements, are controlled.

2. Whether said power of attorney grants sufficient power—(a) to sell and convey the property covered by said agreements, including that proceeding from religious orders situated in the diocese of Habana, Pinar del Rio, Cienfuegos, and the archdiocese of Santiago de Cuba; (b) to receive the purchase price thereof; and (c) to make the usual and necessary stipulations in conveyances of this kind and character.

3. If the power of attorney now held by Archbishop Aversa is sufficient and valid according to law, and whether it is also necessary for the prelates of the dioceses where the property to be conveyed is situated to join in the execution of the deeds in order that good and lawful title may be conveyed to the Republic of Cuba.

Please explain to the attorney that he is not bound by the interrogatories stated, and that he is at liberty to discuss and present any other questions involved in the matter of transfer.

Very respectfully,
Official copy.
FRED. S. FOLTZ,
Aide.

CHARLES E. MAGOON,
Provisional Governor.

[Translation.]

DEPARTMENT OF FINANCE,
Habana, March 30, 1907.

Honorable PROVISIONAL GOVERNOR.

SIR: The legal adviser of this department informs me that he considers the authorization or power of attorney granted by His Holiness Pius X, through his secretary of state, in favor of Monsignor Guiseppe Aversa, archbishop of Sardes and his delegate in this island, sufficient to sell to the Republic of Cuba the church property covered by agreements of October 23, 1901, and January 11, 1902; that said document, duly translated and properly attested, is sufficient, as was the one presented by Monsignor Aversa in the deed of June 28, 1906, to give him the right to appear in representation of the church on executing the new contract.

That on considering the authorization in the aforementioned manner, it should also cover the right to receive the purchase price of the property and all other stipulations in conveyances of this nature.

That inasmuch as the various financial questions now pending between the church and the Republic of Cuba refer to property belonging to the former, the greater part of which proceed from religious orders, the power of attorney should also be considered sufficient to sell property proceeding from said source.

All of which I have the honor to refer to you, in answer to your official letter of the 26th instant.

Yours, with the utmost consideration,

GABRIEL GARCIA ECHARTE,
Acting Secretary of Finance.

INCLOSURE NO 3.—*Letters from Monsignor Joseph Aversa, with letters accompanying same, respecting valuation of the church property in Habana.*

HABANA, May 6, 1907.

To his Excellency the Honorable CHARLES E. MAGOON,
Provisional Governor of Cuba, Palace.

YOUR EXCELLENCY: With further reference to your kind favor of April 13, the receipt whereof has heretofore been acknowledged, I now beg to inclose the additional certificates which you requested at our last interview, sincerely hoping that you may find it convenient to forward the same, together with certificates previously submitted, to the honorable the Secretary of War, in order that the pending matter may be promptly settled. In this connection, I beg to state here that I have already verbally stated that I fail to see the justice in requiring from me such certificates; the value of the property has long since been established, and so would you undoubtedly claim if I were to ask you now for a larger amount than that stated in the contract; but nevertheless I have done all that you asked, and I now pray that it may please the honorable Mr. Taft to order you to carry out the instructions of February 16 last, and that in your first payment you include the amounts which should have been paid during March and April.

I take this opportunity to again assure you of my highest personal regard and esteem.

Yours, very sincerely,

GIUSEPPE AVERSA,
Archbishop of Sardes, Apostolic Delegate.

HABANA, April 25, 1907.

Most Rev. Mons. JOSÉ AVERSA,

Apostolic Delegate for Cuba and Porto Rico, Habana.

MONSIGNOR: Having heard that it is probable that the negotiations between the church and the Government for the purchase of the church properties in this city may fail, I beg to submit to your grace the following proposition, by which I am prepared to take said properties at the prices at which they have been offered to the Government, and which, I understand, are as follows in United States currency: Custom-house, \$1,080,000; Institute, \$351,000; San Agustin's Convent, \$50,000; house on Obrapia street, where the municipal band was, \$15,000; house in Cárdenas street, No. 40, \$3,550; making a total in United States currency of \$1,499,550.

I also call your grace's attention to the form of payment, which shall be as follows: The day the contract is closed each party shall deposit as guaranty \$100,000, to be forfeited by the party withdrawing, and the rest of the amount shall be paid as follows: \$500,000 the day that the deed is signed, \$500,000 ninety days after that date, and the rest of \$399,550 on the following ninety days; with the condition that I will take possession of said properties on the first day of July of 1907, which date, I understand, is the day it expires, the present contract with the Cuban Government.

Hoping that this proposition will be accepted by your grace, letting me know your decision at your earliest convenience,

I remain, your most obedient servant,

SIR WILLIAM H. REDDING.

HABANA, May 6, 1907.

To the Most Rev. JOSÉ AVERSA,

Archbishop of Sardes, Apostolic Delegate in Cuba and Porto Rico.

ILLUSTRIOUS AND REVEREND SIR: I have the honor to acknowledge receipt of your grace's letter of the 2d instant, together with the notes accompanying same; and, answering what I conscientiously believe the buildings mentioned in your aforementioned letter are worth at the present time, I take pleasure in stating that, owing to the conditions and circumstances concurring in said buildings, with which I am personally acquainted, and the particulars relating to their dimension and other data mentioned in the accompanying notes, I believe their value in official money may be estimated as follows, without fear of over estimating same:

First. Building of the San Francisco Convent, now occupied by the custom-house -----	\$1, 600, 000
Second. Building on O'Reilly street, formerly occupied by our university -----	250, 000
Third. Building on Obispo street, now occupied by the institute.	175, 000
Fourth. Building on Cuba street, at present occupied by the Academy of Sciences -----	150, 000
Total -----	2, 175, 000

I must say that on giving the foregoing figures I do not pretend they represent an exact appraisalment, as might be made by an expert appraiser, but simply a low acceptable valuation.

The value given by me to each of the buildings mentioned is what my experience acquired in thirty years law practice in this city would advise me to estimate as a minimum for any transaction in which the sale value of said buildings would have to be taken as a basis for my decision.

I am greatly pleased to be able to serve you, and trusting my humble opinion may prove useful to you, I remain

Yours, respectfully,

JOACQUIN DE FREIXAS Y PASCUAL.

[Translation.]

HABANA, April 29, 1907.

Monsignor JOSÉ AVERSA,

Archbishop of Sardes, Apostolic Delegate.

VERY RESPECTABLE SIR: I have been favored by your most pleasant letter of this date and also the explanatory note of the properties to which the same refers.

What you ask me refers to properties that apart from its positive values, by its location unites the circumstances of having another value that can be said makes them unique, and for this reason I believe that its value is greater than the amount which you stated. My opinion is that taking the old convent of San Francisco, with its communication with the sea and its right to use the beach in front of the same, its value is a million and a half dollars.

The old convent of Santo Domingo, with its additions referred to by you, may be valued at \$400,000, and the Academy of Sciences, with all the lands referred to in your note, at \$75,000.

Principally the convent of San Francisco is a building difficult to value because of the excellent situation which it occupies and the extension it has, that can not be duplicated, besides being very desirable.

I avoid longer explanations that I could express, and, as always, I am glad to subscribe to your orders.

NARCISO GELATS.

[Translation.]

HABANA, May 1, 1907.

His Excellency The APOSTOLIC DELEGATE OF CUBA AND PORTO RICO,

Habana.

MOST EXCELLENT AND ILLUSTRIOUS SIR: In reply to your attentive letter of April 28, I declare that in my opinion the value of the property to which you refer can be estimated and have the following values:

The building formerly known as the "Convent of San Francisco," now called the "custom-house," with its additions, \$1,300,000.

The buildings in which are situated the old university and the Institute of Second Education, which form a part of the old Convent of Santo Domingo, with the grounds on which they are constructed, without the outbuilding situated on the ground floor fronting on Obispo street, \$400,000.

The building occupied by the Academy of Science, part of the old Convent of San Augustine, with the ground on which it is built, \$70,000.

I take the opportunity to greet you respectfully and to subscribe myself, most affectionately, as

Your obedient servant,

FRANCISCO L. DEL VALLE.

[Translation.]

HABANA, April 30, 1907.

Monsignor JOSÉ AVERSA,

Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

MY VERY RESPECTABLE SIR: In answer to your esteemed letter of yesterday, I have the honor to explain to you that, taking the situation in the most important localities of this capital, the ground they occupy, the material of which they are built, and the other circumstances that concur in them, and that are known to my judgment, the building in which the custom-house is located (old Convent of San Francisco) is worth a million and one or two hundred thousands of dollars; the building in which the university was located and where the Institute de Segunds Enseñanza is (a part of the old Convent of Santo Domingo) is worth from \$360,000 to \$380,000, and the building in which the Academy of Sciences is located (a part of the old Convent of San Augustine) is worth at least \$60,000.

It is a pleasure to offer you my respects, remaining at your orders.

Your most faithful servant,

JUAN PABLO FOÑARELY.

[Translation.]

HABANA, May 2, 1907.

Monsignor JOSÉ AVERSA,

Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

YOUR EXCELLENCY: I have the honor to acknowledge receipt of your letter of the 28th ultimo, sent to get my humble opinion of the value to-day of the buildings to which I am going to refer.

You sent me the data referring to the surface of the grounds that correspond

to each of these buildings. This data and the value that in my opinion the buildings respectively have, are the following:

First. Church Convent of the San Francisco and annex land (Aduana 7,129.75 square meters of surface in the limits indicated)-----	\$1, 782, 500
Second. University (O'Reilly and S. Ygnacio), 2,022 square meters of total surface, 508 square meters of covered surface-----	266, 040
Third. Institute, 660.50 square meters of surface-----	115, 310
Fourth. Academy of Sciences, 1,360 square meters of total surface, 894 square meters of covered surface-----	108, 040

Recapitulation.

Custom-house (S. Francisco)-----	\$1, 782, 500
University-----	266, 040
Institute-----	115, 310
Academy of Sciences-----	108, 040
	<hr/>
	2, 271, 890

The value of the four buildings with lands annexed is to-day, according to my estimates, the above amount.

To arrive at this conclusion, I have taken as a basis the data referred to, the condition of the buildings, the price which it will be necessary to pay to get grounds of analogous condition to those, and, finally, my personal estimate upon other factors that will be of no use to state.

I wish to state that in the building used by the Academy of Sciences the State has made very important works that contribute in a great means to give it to-day more value than could be estimated in 1901, but, on the other hand, to find the highest figure for the custom-house building, if it is true, I had in mind its situation, in the most valuable beaches of the port and in the focus of the commercial traffic, I can not be blind that for its historic value of a part of the building, and, *above all*, for being impossible to find any other piece of land like that in the city that could have its unexcelled conditions, unique from certain points of view, it is very probable that I undervalue it. For this reason I do not doubt that in a few years this property could reach higher price than the above indicated.

If I had more time and could take reconnaissance in detail and measurements with the object of making a minute study of the matter, I am sure that the results would differ somewhat from the one obtained, but I can state that the difference would not be important, and the new amount would be also a mere approximation that corresponds to all estimates of this kind, no matter in what time and methods be used.

With my most fervent desire that these lines may be of use to you, I am always ready to obey your orders.

Your most obedient servant,

DIONISIO VELAZCO. *Civil Engineer.*

Consulado 124.

HABANA, April 24, 1907.

HON. CHARLES E. MAGOON,
Provisional Governor of Cuba, Palace.

HONORABLE AND DEAR SIR: Your attentive communication of April 13 received, in which you inform me that the honorable Secretary of War, Mr. Taft, after his interview with me and the Right Reverend Bishop Estrada, requests you to have my attorneys secure affidavits as to the present value of properties already agreed upon between the Roman Catholic Church and the government of Cuba. The motives of which communication, as you state, are, in the first place, that it has been represented to the honorable Secretary Mr. Taft to the effect that the present value of said properties is not as much as the appraisal made in 1901. Secondly, your communication reads that the increase of value in real estate in the city of Habana is not general, but confined to localities, and that the properties in question do not present instances of increased value. Among these said properties is specified the Aduana (custom-house) as having decreased in value by reason of the Habana Electric Railway.

Honorable governor, I hope you will consider most attentively my most

earnest feelings, herein expressed, in this question, as your communication has caused me very great surprise; reason for which I might here express. In the first place, the favorable report you sent to the honorable Mr. Taft on 25th of January, 1907. Secondly, Mr. Taft's reply of February 16, 1907, in which he said: "You are hereby directed and authorized to make the payment accordingly and to issue decrees to carry out your recommendation which, by direction of the President, I fully approve." In the third place, I am very much surprised because of the declarations you made and in the presence of the Right Reverend Bishop Estrada, of Habana, on several occasions. Fourthly, I am still again surprised owing to these same declarations made to me by the honorable Mr. Taft the same evening I had a conference with him and in the presence of the right reverend bishop of Habana. Therefore from these motives and as you promised me absolutely no change would be made, I can not nor ought I to doubt your previous decision. The adverse publications of certain newspapers, inspired—as you know already and too well—by whom and for what end, you declared would have no effect upon the decision already taken. This I say because from the first day I had the honor of speaking with you I have held you in complete and absolute confidence, nor is that same confidence now lessened despite the disappointment caused by your communication.

In considering the contents of your most respectful letter permit me, please, to invite your attention to its essential part, namely, that the question contained does not form an impediment in the fulfillment of contract of 1901. Truly your keen intelligence can not overlook the fact that the present case is the fulfillment of a contract, the contracting parties being a legal representative of the United States as military governor of the island of Cuba and a legal representative of the Catholic Church authorized by the Holy See.

In no part of the contract are mentioned future conditions in which properties may be found. On the contrary, the contract clearly and distinctly states "that the honorable military governor accepts, on behalf of the island of Cuba and its government, the agreement to sell hereby *made in the terms in which it is drawn.*" The contract again states "that through the stipulations contained in the preceding clauses all differences between the government of Cuba and the diocese of the bishopric of Habana definitely resolved, in so far as relates to the reclamations made by the right reverend bishop of the diocese of Habana from the military governor of the island, and which were duly considered by the commission appointed by the said military governor as hereinbefore set forth in this instrument, without any further claim or demand on said account, both parties hereto obligating themselves by their respective representatives and binding themselves by this agreement for all time."

Therefore, permit me, laying aside all mental reservation in the present case, to bring before you a question. If on account of the increased value of real estate in Habana the church had even pretended that the price, already agreed upon in a solemn contract, should be raised in her behalf, what would the State have thought of such presumption?

Honorable and dear governor, I again repeat that I have never doubted your faith nor that of the honorable secretary's, and on account of that same good faith I shall treat the question of price which the informants of Secretary Taft have proposed, but, truly, I ought not to enter into the question, as the question itself does not enter into the contract. I have not sought to secure the affidavits as you requested, as the present value of the property in question is a matter of competent opinion and must be taken as a competent opinion and not as a sworn statement such as affidavits must be. I have, however, secured the written statements of fourteen of the largest property holders in the capital, and their opinions of the increase in value of Habana property in general, and of the Aduana in particular, is found in these statements which they have signed. No one can say that real estate in Habana, no matter in what part of the city it may be, and especially along the bay, has decreased in value. To make myself convinced in this statement I have talked with the best authorized and most competent judges in the matter. Among this number I have secured a statement from the honorable mayor of Habana, asking him at the same time that he likewise would all the more be assured by the opinion of a city department competent to judge in this question—that is to say, whether real estate in the city of Habana, and especially real estate along the bay, has increased or decreased since the first intervention to the present date. Inclosed find letter, original and official, from the honorable mayor, in which letter it is clearly stated that the price on real estate has *increased*. Among other opinions, I have secured information from various property holders, who are well-

known, trustworthy, and competent judges in our present question. All, with out exception, have given me the same answer, namely, that real estate, especially along the bay and on business or commercial streets, has increased in value more or less from 40 to 60 per cent. I have said without *exception*, as no one has made mention of a decrease in value. These answers or opinions I shall also inclose for your inspection. In conclusion, therefore, I must say I am confident that with all inclosed herein the case will be clear and that no more difficulties will arise to impede the fulfillment of the contract. Since there are persons who, for their own purposes, attempt to bring forth new incidents as a hindrance to the fulfillment of the contract, I trust and confide in you, as your word and that of the honorable Mr. Taft is a sufficient and a sure guarantee.

Very respectfully, yours,

GIUSEPPE AVERSA,
Archbishop of Sardes, Apostolic Delegate.

[Translation.]

HABANA, CUBA, April 18, 1907.

Mr. JOSEPH F. TORAYA,
Empedrado 30, Habana.

SIR: As you are one of the best known and most notable engineers of this city, in consequence your opinion is very much esteemed by me, and it would please me exceedingly to have you give your opinion on the back of this letter. I desire to know if the property included between the cathedral and calle de Muralla and from calle de San Ignacio to the bay has increased or decreased in value in the last seven years; and if so, what proportion or what per cent.

I take advantage of this opportunity to offer you my sincere thanks, and subscribe myself your obedient servant,

JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate.

[Translation.]

HABANA, April 22, 1907.

Monsignor JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

ILLUSTRIOUS SIR: The property in the zone to which you refer has increased in value 50 per cent, and in many cases of clients of mine they have not wished to sell at that price.

The rents also have increased extraordinarily, in many cases more than 80 per cent.

I shall be very glad to give you any other information that you may need, and remain,

Your servant,

JOSÉ M. TORAYA.

[Translation.]

HABANA, CUBA, April 18, 1907.

Mr. JORGE DE AGURIA,
Aguilar 100, Habana.

SIR: As you are one of the largest tax payers on city property in this city, and as I esteem your opinion very highly, I will be glad if you will make it known to me on the back of this letter.

I wish to know if the property included between the cathedral and calle de Muralla and from calle de San Ignacio of the bay has increased or decreased in value in the last six or seven years, and in what proportion or what per cent.

I take advantage of this opportunity to offer you my sincere thanks, and subscribe myself,

Your obedient servant,

JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate.

[Translation.]

HABANA, CUBA, April 18, 1907.

Monsignor JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

MY DEAR SIR: I answer with pleasure your kind letter in which you ask for my opinion about the value of property in a determined zone of this city, stating that it is generally recognized that said value has increased in more than 50 per cent in the last six years, principally in the neighborhood of the piers and the commercial streets.

Yours, with the greatest consideration,

JORGE DE AGURIA,
 By RAMON DE AGUIRIA.

[Translation.]

HABANA, April 19, 1907.

Monsignor JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

MY DEAR SIR: In answer to your question in this letter, I have the pleasure to inform you that the properties located in the locality to which you refer have increased in value from 25 to 50 per cent from seven years ago up to to-day, according to its location, which I am able to prove by the price reached by some of my property which I have sold.

I repeat myself your most obedient servant,

"THE MARQUIS OF REAL PROCLAMATION."
 (M. A. RECIO DE MORALES).

[Translation.]

HABANA, April 18, 1907.

Monsignor JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

MY DISTINGUISHED SIR: In answer to your kind letter on the back, I have the pleasure to state to you that I have the firm belief that all property of Habana has increased in value and more in the zone to which you refer.

This opinion of mine I wished to see confirmed by proprietors and experts, and they have satisfied me by showing examples of sales made with large profits.

Yours, truly,

V. M. JULBE.

[Translation.]

Most Illustrious Monsignor JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

RESPECTABLE MONSIGNOR: In my opinion all properties situated within the capital have increased in value during the last six or seven years, and consequently that included within the zone referred to in your letter, on the back, has also increased.

But with regard to fixing with prudence what has been the increase, it is not possible to fix the highest point because it necessarily would depend on the situation and condition of the property, where it is located, and the time when the transfer can be effected.

With greatest respect and consideration, I remain,

Your obedient servant,

COSME B. HERRERA.

[Translation.]

HABANA, April 20, 1907.

Monsignor José AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

MY DISTINGUISHED SIR: As a proprietor of some houses situated in the zone that you have told me, I believe that property has increased in the last seven years 80 per cent, according to sales made this year of some houses and lots.

I am, your obedient servant,

PEDRO MORALES Y SANTA CRUZ.

[Translation.]

HABANA, April 18, 1907.

Monsignor José AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

VERY RESPECTABLE SIR: I have the pleasure of answering your question asked in your kind letter on the back and to state that, according to my information, the properties situated in the zone you mentioned, and especially those nearer the sea, have increased in value in the last six or seven years and yet it is not easy to state what the increase is, because it depends on the various circumstances of the localities in which they are situated.

I believe that on the average this increase should be at least 50 per cent. There may be cases in which the increase is greater and less in others, and from this I estimate the average at least is what I have already stated.

With the greatest consideration, I am,

Your affectionate and obedient servant,

NARCISO GELATS.

[Translation.]

HABANA, April 18, 1907.

Monsignor José AVERSA,
Apostolic Delegate, Presente.

MY DISTINGUISHED SIR: In reply to the question asked in your attentive letter on the back, I have the honor to state as a proprietor I understand that from the date mentioned in your letter real estate has increased from 40 to 50 per cent in the zone mentioned by you.

I have the honor to subscribe myself, very respectfully,

Your obedient servant,

THE MARQUIS OF PINAR DEL RIO.

[Translation.]

HABANA, April 19, 1907.

Monsignor José AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico, Presente.

MONSIGNOR: My opinion is that the property included in the zone indicated has increased considerably in the last seven years, and I know real estate that has brought double what it was then valued at, but on the whole I estimate the increase at from 40 to 60 per cent.

CLAUDIO MENDOZA.

[Translation.]

Most Illustrious Signor José AVERSA,
*Archbishop of Sardes, Apostolic Delegate
of Cuba and Porto Rico, Habana.*

MONSIGNOR: I answer your esteemed letter of the 18th, stating by what I know of the sales of houses and lands in the zone referred to by you, the price of property included in it has increased in a considerable proportion, which can be estimated between 60 and 80 per cent of the value which it had seven years ago.

With great respect and consideration, I am,

FRANCISCO GAMBA.

[Translation.]

HABANA, April 18, 1907.

Monsignor JOSÉ AVERSA,
Apostolic Delegate of Cuba and Porto Rico.

MONSIGNOR: In reply to your letter, I should state that since the Spanish sovereignty ceased in Cuba city property in Habana has increased in value extraordinarily and particularly within the limits indicated by you, on account of the proximity to the harbor, the seat of great commerce, where importation and exportation takes place.

I do not think that I err in stating that the increase in this place has been from 40 to 50 per cent more than it had been.

This is what I must state in answer to the question which you asked me.

I am with great consideration and respect.

Your obedient and attentive servant, Q. B. S. M.,

VICENTE HERNANDEZ.

[Translation.]

Monsignor JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

MONSIGNOR: In answer to your attentive letter, in which you ask if in the last six or seven years property situated in the radius designated in your letter has increased or diminished and in what proportion, it is my duty to state that according to my best understanding and knowledge this property has increased from 40 to 50 per cent, and I could cite various cases which will show it, but I fear to make this letter too long.

I offer you, Monsignor, my best wishes.

EL MARQUES DE ESTEBAN.

[Translation.]

DIARIO DE LA MARINA.
 Habana, May 6, 1907.

Most Illustrious and Very Reverend APOSTOLIC DELEGATE.

MY VERY DISTINGUISHED SIR: The actual value of the Convent of San Francisco, the old university, and the Academy of Sciences is, in my opinion and the opinion of experts whom I have consulted, much higher than those buildings were in 1901.

I reiterate my compliments and kiss your pastoral ring.

NICOLAS RIVERO.

[Translation.]

CITY HALL, Habana, April 16, 1907.

The BISHOP OF HABANA, *City.*

SIR: I have the honor to acknowledge receipt of your kind favor of this date, requesting that you be informed by the department of the city architect if the land and buildings which comprise the custom-house in this city has increased or diminished in value since the first intervention to the present date, and as a result I transcribe below the information given by the city architect, who says:

HABANA, April 16, 1907.

"CITY MAYOR: In compliance with your request in the inclosed correspondence from the bishop of Habana, I can inform you that the value of the custom-house must necessarily be higher at present than it was seven years ago on account of the notable increase that urban property has received, although the street cars which pass by the walls did not exist in that year, the construction of a new building for the exchange of commerce will concentrate the commercial life of this place—all causes which raise its present value."

Yours, attentively,

JULIAN CARDENAS, *City Mayor.*

[Translation.]

HABANA, April 18, 1907.

Monsignor JOSÉ AVERSA,
Archbishop of Sardes, Apostolic Delegate of Cuba and Porto Rico.

MY DEAR SIR: Answering your attentive letter written on the back, I have the pleasure of informing you that naturally it is well known and well confirmed that city property within the limits indicated by you in general terms has increased considerably in value in the last seven years.

It is also natural that each particular case would be in relation to the condition of the property, situation of same, etc.

I am very glad to give you my opinion respecting any particular building, and I take this opportunity to answer you that I am,

Your attentive and obedient servant, Q. B. S. M.,

JOSÉ G. DE LA CAMARA.

INCLOSURE No. 4.—*Letter to Dr. Leopoldo Berriel, rector of the University of Habana, and his reply forwarding copy of report appraising church property made by professors of the university.*

REPUBLIC OF CUBA,

UNDER THE PROVISIONAL ADMINISTRATION OF THE UNITED STATES,

OFFICE OF THE GOVERNOR,

Habana, May 16, 1907

DR. LEOPOLDO BERRIEL,

Rector of the University, Habana.

MY DEAR MR. BERRIEL: I have the honor to inclose herein a memorandum of extracts from the contract of lease and option entered into between the military government of Cuba and the Roman Catholic Church on October 23, 1901, by which certain properties recognized as belonging to the church were leased to the State, and the State secured the right to purchase such properties upon certain terms. In the inclosed extracts you will find a description of the property and the valuation placed thereon for the purposes of the contract. As the term of the option is about to expire, it becomes necessary for the government to ascertain the advisability or inadvisability of carrying out the purchase, and in this connection I beg you to give me the benefit of your valuable opinion in regard to two matters:

1. What is the present value of each of the pieces of property in question?
2. If the total value as fixed by you should be less than the values stipulated in the contract, would it be worth the difference to the government to retain the property rather than incur the trouble and hazard of removal?

In estimating the value of the Aduana will you please separate it into two items, (a) the value of the littoral; (b) the value of the remainder?

Permit me to suggest that you call to your assistance in this matter the professor of engineering and the professor of architecture in the university of which you have the honor to be the head.

Respectfully,

CHARLES E. MAGOON,
Provisional Governor.

[Translation.]

HABANA, May 27, 1907.

THE PROVISIONAL GOVERNOR OF CUBA.

HONORABLE SIR: Pursuant to your wishes as expressed in your communication of the 16th instant, regarding my opinion as to the two particulars referred to in said communication, I have availed myself—following your advice—of the assistance of the professors of the school of engineers and architects of this university, Messrs. Luis de Arozarena, Antonio Espinal, Eugenio Rayneri, Alejandro Ruiz Cadalso, Aurelio Sandoval, Ovidio and Antonio Gibergera, Andrés Castellá, Antonio Fernández de Castro, and José María Cuervo;

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and these professors, after carefully studying, in view of the memorandum which I received from you, the matter submitted to their consideration and opinion, have unanimously rendered this day, under their signatures, the report of which I have now the honor to submit a copy to your excellency.

With the greatest consideration and respect,

Dr. LEOPOLDO BERRIEL,
Rector of the University.

[Translation.]

HABANA, May 27, 1907.

To the RECTOR:

In compliance with your instructions, we have carefully studied, taking into consideration the urgency of the case, your inquiry regarding the property of the church, and we have the honor to inform you that, in our opinion, the present value of said property is as follows:

Custom-house of Habana:

Ex-convent of San Francisco, with its church and chapel.....	\$460,000
Custom-house, warehouse, and annex.....	180,000
University and institute.....	300,000
Academy of Sciences.....	50,000
House on Cardenas street, No. 40.....	3,500
House on Obrapia street, occupied by the municipal band.....	12,000

Total..... 1,005,500

Making a total of \$1,005,500 United States money.

These figures are merely approximate, as it would take at least one month to make a detailed and careful appraisalment.

We have not appraised the value of the rights which the church may have to the water front, because we do not know just what those rights are in the present case, nor have we been furnished with the area of the littoral.

As to the question asked: "If the total value as fixed by you should be less than the values stipulated in the contract, would it be worth the difference to the Government to retain the property rather than incur the trouble and hazard of removal?"

We are compelled to inform you that we do not consider ourselves competent to answer that question, inasmuch as it is not a technical question, but an administrative one. We do not know in detail what the trouble and hazard are in each case, and even if we were told we could not appraise same on any technical basis, the only one on which we could give an opinion, regarding the pecuniary value of said trouble and hazard in order to compare them with the extra expenses which the avoidance of said trouble and hazard would represent. And besides we do not know what means might be employed by the executive, by virtue of the ample powers vested in him and according to the resources within his reach, to make the consequences of removal less perceptible in case it should become necessary to vacate the buildings in question.

Yours, respectfully,

Dr. LUIS DE AROZARENA.
A. ESPINAL.
Dr. A. RUIZ CADALSO.
EDUARDO ANTONIO GIBERGA.
EUGENIO RAYNERI.
OVIDIO GIBERGA.
J. M. CUERVO.
A. F. DE CASTRO.
Dr. ANDRÉS CASTELLÁ Y ABREU.
AURELIO SANDOVAL.

Copy.

Dr. LEOPOLDO BERRIEL,
Rector of the University.

INCLOSURE No. 5.—*Letter to Sr. Sola inviting valuation of church property, and report of Messrs. Sola, Tomas Fernandez, and José Garcia.*

HABANA, May 16, 1907.

Mr. LEOPOLDO SOLA,
Amargura 21, Habana.

MY DEAR MR. SOLA: I have the honor to inclose herein a memorandum of extracts from the contract of lease and option entered into between the military government of Cuba and the Roman Catholic Church on October 23, 1901, by which certain properties recognized as belonging to the church were leased to the State, and the State secured the right to purchase such properties upon certain terms. In the inclosed extracts you will find a description of the property and the valuation placed thereon for the purposes of the contract. As the term of the option is about to expire, it becomes necessary for the Government to ascertain the advisability or inadvisability of carrying out the purchase, and in this connection I beg you to give me the benefit of your valuable opinion in regard to two matters.

1. What is the present value of each of the pieces of property in question?
2. If the total value as fixed by you should be less than the values stipulated in the contract, would it be worth the difference to the Government to retain the property rather than incur the trouble and hazard of removal?

In estimating the value of the Aduana, will you please separate it into two items—(a) the value of the littoral, (b) the value of the remainder?

Respectfully,

CHARLES E. MAGOON,
Provisional Governor.

[Translation.]

HABANA, May 21, 1907.

Hon. CHARLES E. MAGOON,
Provisional Governor.

HONORABLE SIR: In compliance with your request, I will now proceed to give you my personal opinion as to the value of the property which the Roman Catholic Church owns in this city and which the church is willing to sell to the Government.

(A) *Old convent of San Francisco.*

It is a well-known fact that everything has an intrinsic value which serves as a basis for its appreciation in the market and another value relating to the utility or service which it renders or may render to specified persons, to whom, consequently, that same thing may be far more valuable than to other persons. This point of view can not be lost sight of without incurring serious errors.

The Cuban Government occupies the old San Francisco Convent building with all the different departments of the custom-house of this port. The wharves used for the service connected with the importation of merchandise extend from O'Reilly street up to Rical or Muralla. The building in question, which has a capacity of over 7,000 square meters, is situated within the above-described space, having a frontage of about 115 meters on Oficios street and 102 meters on the wharves, occupying the square formed by said streets and that of Churruca and Plaza de San Francisco. The fact that the building is located in that part of the city where there are a large number of business houses and is easily reached by means of cabs or electric cars, etc., makes it more valuable to the Cuban Government for the use of the custom-house offices. If the Government should be deprived of the use of the aforementioned building for the usual custom-house business, it would encounter a great many obstacles, which would perhaps be insurmountable, in finding another place to establish said offices combining the same conditions of location and adaptability, because there is no suitable land within the space comprising from O'Reilly to Muralla, where the public wharves are located, on which the Government might build the very large building required; and it would either have to build on land more or less distant from the wharves, with all the inconveniences and obstacles to be encountered by such move, or it would have to transfer the wharves to another part of the harbor, and this would be a gigantic undertaking, costing several millions of dollars.

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On the other hand, the building occupied by the custom-house is in bad condition, specially the second-story ceiling, the greater part of which is rotten and propped. Part of the building can not be used at present, due to its ruinous condition and constitutes a real danger. But if the Government purchases the building it could be repaired and placed in first class condition, making it a very valuable property of unquestionable utility.

The right to the water front pertains to the rear of this building, and this fact increases its value. That part of the littoral is very valuable owing to its proximity to the entrance of the harbor, protected, having plenty of water, and an extension of 102 lineal meters.

Taking into consideration the facts set forth in the preceding paragraphs, as well as the increase which property in Habana has had within the last six or seven years, I judge that the old San Francisco Convent building, with all the land and the right to the water front, is worth to the Government \$1,300,000 United States currency, and without the right to the water front \$1,150,000.

(B) Old Dominican Convent, formerly occupied by the University of Habana.

This building is situated on O'Reilly, which is one of the oldest and principal streets in Habana. It has an area of over 3,000 square meters, on very valuable land. The building is very old and as it is not used at present by the Government, it being rented to several business and private concerns, it is not worth any more to the Government than it would to any private individual who might care to purchase it, consequently its intrinsic value only should be estimated. Therefore, under these conditions and considering the present state of the building and the large amount of money which must be spent for repairs, I estimate is worth \$225,000 United States currency.

(C) Building occupied by the institute, which formed part of the old Santo Domingo convent.

It is situated on Obispo street, which is the best street in the old part of Habana, having an area of 660 square meters. Its condition is better than that of the other two mentioned. I estimate its value at \$125,000 United States currency.

(D) Building occupied by the Academy of Medical, Physical, and Natural Sciences of Habana, which formerly formed part of the old San Agustin convent.

It is situated on Cuba street, which is one of the good streets in the old part of Habana. It has an area of 1,360 square meters. Of said area there are nearly 900 meters built with a modern building in first-class condition; there is a "patio" or yard to the rear measuring 466 square meters which may also be built. I value the building with its yard and in its present condition at \$90,000 United States currency.

(E) Building on Obrapia street, at one time occupied by firemen as an engine house.

It is located on a good street of the old part of Habana. It has an area of 210 square meters. It is not used by the Government, being rented to a business firm. It has two stories; a very old building and in pretty good condition. A great deal of work would have to be done on the building to put it in the modern condition which all buildings should now combine. I judge it is worth \$14,000 United States currency.

(F) House on Cardenas street, No. 40.

It is situated on one of the modern streets of Habana, although the ward is inferior to many others in the city. Its area is only 92 square meters approximately. It is in very bad condition, to such an extent that I shall only estimate on the value of the land, as I consider all work of repair useless. The building should be demolished. I estimate its present value at \$1,500 United States currency.

Recapitulation.

Building A -----	\$1,300,000.00
Building B -----	225,000.00
Building C -----	125,000.00
Building D -----	90,000.00
Building E -----	14,000.00
Building F -----	1,500.00
Total -----	1,755,500.00

Respectfully, yours,

LEOP. DE SOLA.

[Translation of indorsement.]

Our opinion agrees with the report of Mr. Sola, which we consider a public necessity.

TOMÁS FERNANDEZ.
 JOSÉ GARCÍA.

HABANA, CUBA, *June 1, 1907.*

INCLOSURE No. 6.

130 CONSULADO STREET,
Habana, April 27, 1907.

HON. CHARLES E. MAGOON,
Presidential Palace.

MY DEAR SIR: I regret sincerely that my early departure for the north precludes my giving a thorough examination into the church-property question, as I should have desired; and as your secretary advises me that you desire to use such data as I may be able to give to-morrow, I submit the following with due apologies as to its brevity.

I have visited again the property on the list submitted to me and would estimate the values roughly as follows: The university and institute at from \$350,000 to \$360,000; the convent property at about \$75,000; that at Obrapia and Agular at between \$20,000 and \$22,000; the Cardinas street house at about \$3,000.

As to the custom-house, in consequence of its unique location and the virtual impossibility of securing another site in Habana having so many natural advantages for its particular use, I have no hesitancy in valuing that piece of property at over a million and a half dollars.

Most respectfully submitted,

WM. L. WOOD.

INCLOSURE No. 7.

HABANA, CUBA, *May 16, 1907.*

MR. H. B. LEAVITT,
Care of The Habana Post, Habana.

DEAR SIR: With further reference to our conversation of the 9th instant, wherein I advised you that I should be glad to receive any evidence you desire to submit as to the value of the church property covered by the contracts of purchase entered into by the military government of Cuba with the church authorities in 1901 and 1902, permit me to again state that I shall be glad to receive, consider, and forward to Washington any statement or evidence as to such value as you see fit to submit.

As stated to you in said conversation, the several issues of the Havana Post

containing articles on the church property matter are on file at the War Department, and a list of the dates of these issues will be made a part of the record.

Yours, very truly,

(Signed)

CHARLES E. MAGOON,
Provisional Governor.

Official copy.

FRED. S. FOLTZ, *Aide.*

NOTE.—No response received.

Articles relating to church property published in "Habana Post" between February 27 and May 25, 1907.

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NOTE.—These papers on file in the Bureau of Insular Affairs, War Department, Washington.

HOTEL CAMAGUEY,
CAMAGUEY, PUERTO PRINCIPE, CUBA,
April 23, 1907.

To the Hon. WILLIAM H. TAFT,
Secretary of War, Washington, D. C.

SIR: In response to your request made me verbally during your latest visit here, I have the honor to submit to your consideration, on a separate sheet, an estimate of the value of the properties located in this city rented from the church by the Government of Cuba. I regret that I am unable to forward at the same time an estimate on the church properties located outside Habana, but I have no personal knowledge of their worth. I understand, moreover, that your commission referred to those within the city only.

The valuation as I estimate it amounts to \$1,165,926, and is reckoned from data as follows:

VALUE OF THE GROUND.

The latest regular sales of lots on Obispo, O'Reilly, and Oficios streets were made at a rate of \$80 to \$100 a square meter; it is doubtful that at even these prices any large amount of land could be secured on the streets named. The National Bank paid \$100 a meter for the ground its building occupies on Obispo street, one block distant from the institute. Another loan and investment com-

pany paid \$85 a square meter on Oficios street for a lot of 1,210 meters. Very few transfers of lots on the streets named are made, despite the fact that purchasers offer; what is lacking are owners desiring to sell. I own a house on Oficios street, 50 yards from the custom-house, together with 400 meters of ground; I have refused offers of \$65 and would not sell at even \$100 a meter. Doctor Bruzon, a very prominent lawyer, refused a short time ago an offer I made him in the name of the Union Club on a building on Central Park (the café, club, and hotel center of the city), the ground on which it stands being figured at more than \$100 the meter.

Unfortunately for the improvement of the city of Habana and the comfort of its inhabitants, little is known in Cuba of the rules that elsewhere govern the valuation of urban real estate. In the suburbs lots suitable for residences sell as high as \$10 the meter, and the result is that instead of being placed in spacious grounds the homes there built are crowded, each on a 200 or 300 meter lot, and constructed in a fashion that militates against the convenience of those residing within it. In the face of prices which rule in the suburbs there are real estate dealers who offer only \$25 or \$30 for ground in the heart of the city. The most central sections of Habana are the ugliest because of the old one-story houses there located. Most of the buildings now erected, especially for residence purposes, are located outside the center, toward the edges of town.

There are also instances of parties acquiring, thanks to the activity of lawyers somewhat unscrupulous, lots centrally located at very low figures, these figures being forthwith accepted as a basis for calculating values, regardless of the fact that they really are the exponent of the suggested lack of scruples rather than of the real value of the real estate.

In short, it may be stated that ground on the central streets of Habana is worth more than the valuation placed on it by speculators and local real estate men. For this very reason the central districts of the city are not easy to improve and rebuild, and also for this reason government action defining the value of the ground and planning reforms in the matter of urban taxation and building and police ordinances, with a view to improving the building along those streets mentioned and other main avenues, would be very beneficial and conducive to the welfare of the city of Habana.

INTEREST ON CAPITAL INVESTED.

Considered from the viewpoint of rents as they stand to-day, to buy the church properties in question at the figures indicated is a good business. In the commercial districts the return is \$5 or \$10 per annum per meter of utilized space, in the case of warehouses and store buildings, restaurants, etc., centrally located; the return is from \$9 to \$15 per meter occupied by office buildings in the best location on central streets. Buying the lots for such buildings at the rate of \$60 to \$100, handsome and solid structures could be erected which would clear the owner from 6 to 8 per cent per annum. On the other hand, to obtain equivalent results from dwelling houses, paying for the lots outside the central section of the town at the rate of \$20 or \$25 a meter, exaggerated rents must be exacted (\$4 to \$8 per meter on each floor) and this is what is done in Habana to-day, where the middle class exists without comforts. Moreover, the building itself must be none too excellent a construction.

In short, as to the price of land in Habana, it will have to go up, and it will go up before many years beyond the prices at present prevailing on Obispo, O'Reilly, Oficios, San Rafael, Prado, and Galiano streets, whereas it will remain stationary, or rise very little, on the main residence streets, such as the Malecon, Reina, and the leading cross streets as far as Belascoain; as for the price of real estate in the suburbs, I believe the price of lots will come down, especially if the city council were to insist on ordinances which ought to declare that in the new sections (where ground has been purchased at 10 and 15 cents a meter) houses should be erected in the center of their lots, with space between for gardens and open areas.

In view of these facts, and considering the state in the light of a party to an investment, I have estimated the value of the ground on which the custom-house stands at \$80 a meter. I do not believe that any large lot of land could be had on Oficios street at less than that figure. It is the center of the wholesale grocery importing district.

As to the lot on which stands the convent formerly occupied by the university

(on the O'Reilly street side) and by the institute still (on the Obispo street side), since this latter has only 11 meters frontage and its principal value consists in that it adjoins the other, I have considered the property as one, with a connecting passage from O'Reilly to Obispo, and have placed the value at \$83 a meter, which is the figure at which the latest sale was made in that district, at an almost equal distance from the palace.

The lot on which the Academy of Science stands is in a commercial district, but one wherein lots are not in such high demand at even \$50. The street car passes within 50 centimeters of the sidewalk in front of the building, which reduces the value of the property, for it limits the uses to which it might be put.

As to the other small properties, they are estimated with due regard to all particulars of their location, form, extension, and placing, the neighborhood, and their possible use.

BUILDINGS.

All the buildings on the lots under consideration, with the exception of that occupied by the Academy of Science, which is new and quite well constructed, are in bad shape. They are inadequate to the uses to which they are put. Through faults in their construction much space is wasted, and they need a general rebuilding, or else should be removed entirely to make room for new edifices. The city of Habana needs a new post-office, and the present location of the institute, considered together with what was the university building, would be a place for it. There are 2,800 meters space, and the buildings might be remodeled, preserving the entrances on Obispo and O'Reilly, and arranging an arcade or passage through from one street to the other.

It is impossible to estimate the present value of any of the buildings concerned by what they cost originally. In view of the work that would have to be done on them to put them into good shape, I have calculated their value as they stand and then discounted 50 per cent on account of their condition. I believe that the most practical thing to do is to figure that the purchaser will have to demolish those buildings in order to make better use of the space and rebuild as demanded by whatever special use he may propose to make of the building, doing the work according to modern rules of civil construction. Yet the existence of the buildings in question, even in their present state of poor repair, but still habitable, places a premium on the lots under consideration, for an equitable judgment can not overlook a building which is proving of profit to the seller merely because the buyer can not use it or does not like it. The destruction of the buildings would of course yield much material that could be used again to advantage.

THE WATER FRONT.

According to the law of ports and previous legal precedent, the water front along the shores of a country and its ports, to a breadth of 20 meters, reckoned from the high-water mark, belongs to the State and is known as the salvage zone (zona de salvamento), and this no individual may occupy or fence. In all surveys this strip is always recognized as the State's property, and therefore the only point which the church can advance is perhaps her right of ownership to that strip of ground which may remain this side the 20 meters indicated along the 400 meters of extension, approximately, of this property. In placing a valuation on it due regard must be had to the space necessary for public highways, which the municipality has a right to acquire at the rate of valuation set by that corporation in cases of expropriation ("por causa de utilidad y necesidad").

In view of the fact that there are no permanent buildings erected there by the alleged owner, and in view of the fact that the property has been kept up by the State or the municipality, the valuation, I believe, ought not to exceed \$20 or \$25 a meter, and taking it that the average width of the solid land is 28 meters, the following is the result:

	Meters.
400 meters by 28 meters.....	11,200
From which deduct the State's belt, 400 meters by 20 meters.....	8,000
	<hr/>
Difference to be indemnified.....	3,200
	<hr/>
3,200 meters at \$25 a meter.....	\$80,000

Therefore the best and simplest thing to do is to include this and any other such sum in the amount which the State may figure it worth, to be added to the actual value of the properties to be acquired, under the heading of the Government's "political and moral interest" in obtaining them, and, frankly, that interest is great as concerns both the State and the municipality of Habana.

UTILITY AND NECESSITY OF ACQUIRING THESE PROPERTIES.

To the actual valuation as calculated I believe the State may well add 20 or 25 per cent more out of consideration for the following facts:

First. The State has not all the buildings it needs for the accommodation of its public offices, and the most of those it does possess are old, inadequate, and in need of repairs. The State ought to have more buildings near the palace and the city hall in order to centralize there certain departments in buildings of its own.

Second. The state ought not to lose this opportunity to acquire property in certain locations and zones along the shore, control of which is necessary for the future improvement of the city.

Third. The present administration and every Cuban government should keep in view the fact that sooner or later Habana will have to be organized into a district resembling that of Columbia, or at least like that of Paris, and therefore the municipality will one day merge its political and economic identity in that of the state.

Fourth. The state should acquire the custom-house either to rebuild it or to demolish it, and enlarge San Francisco park, since a park is needed, or the ground might well be used for a market, since a market is badly wanted in that locality in order to facilitate the supplying of ships in bay and all that section of the city. The only two markets in Habana (both big and in unsanitary condition) are located at great distance from the bay and both of them need to be closed for improvements, especially in respect to the matter of removing living rooms from the market, and the improvement of ventilation and sanitary equipment.

Fifth. The state needs to demolish the present post-office, which is small and threatens to collapse, and is altogether unsuited to the use to which it is now put; it ought to be removed to make way for the improvement of the water front, just as some other public buildings in the vicinity ought to go, entire or in part, along with the wharf sheds from Caballeria to the Machina, by the custom-house, to give place for improvement there which Habana begins to demand.

Sixth. If these improvements are to be effected obviously the state should not lose this opportunity to acquire those properties on which it has a sort of limited option, simply because it needs the ground, and should it lose this chance to-morrow it will have to pay more on expropriating them according to the law of internal urban development (Ley de Ensanche Interior de Poblaciones), which has been in force in Spain since before 1898, is still in effect, and which almost nobody in Cuba knows of.

Seventh. The buildings known as the "institute" and the "old university" are even more necessary to the state than the custom-house, and in my opinion the state ought to consider acquiring with them the rest of the property in that block (the best for the purpose to be had in Habana), there to erect a public building intended for the accommodation of certain departments which ought to be close by the palace and in the business center of town, such as the postal department, the offices of the secretaries of state and government, which are to-day badly located, cramped; the offices of the census bureau and statistics, which heretofore has not existed, etc.

Eighth. Even though the land occupied by the wharves and the water front is wholly the state's (I doubt that the church has any right to that property), in my opinion it would be best to avoid the possibility of controversy and do away with whatever privileges may have been acquired from the Crown of Spain and which might give rise to lengthy law suits, costly for both parties, in preference to acquiring all the properties in dispute.

This, I believe, concludes the remarks it occurs to me to make on this subject. I trust that my views may be of service to you, and am, sir, your most obedient servant,

L. V. DE ABAD.

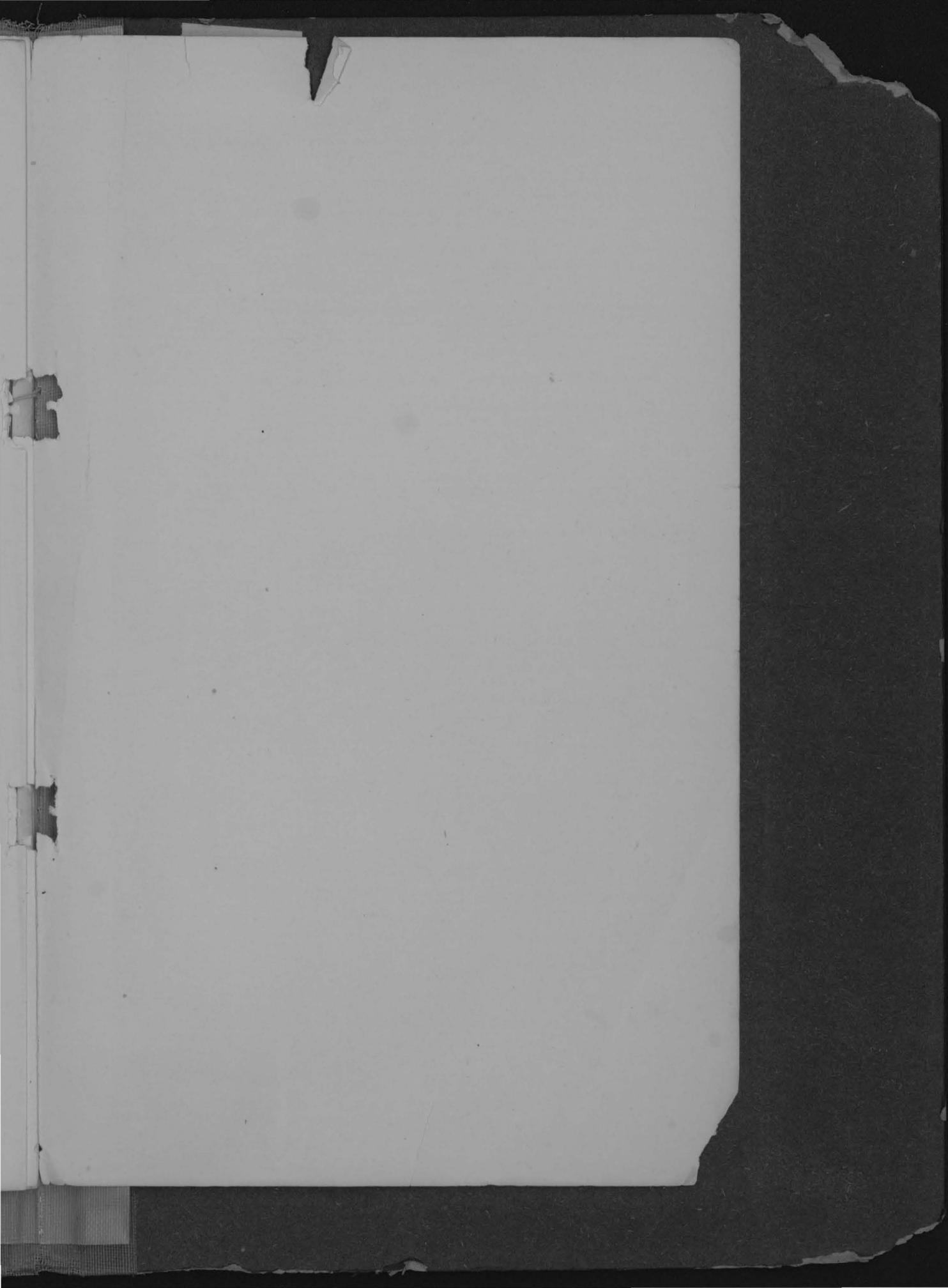
Estimated value of lots and buildings thereon located in Habana and rented by the State from the church.

Old university, area 2,202 square meters, on O'Reilly street:		
Value of lots at \$83 a meter-----	\$182,766	
Value of building at \$40 a square meter of construction, estimated at 75 per cent total area (50 per cent)---	66,060	\$248,826
Institute, area 660 square meters, on Obispo street:		
Value of lots at \$85 a meter-----	54,780	
Estimated value of building-----	30,000	84,780
Custom-house, area 7,127 square meters, on Oficios street:		
Value of lots at \$80 a square meter-----	570,160	
Value of building (in bad condition) at \$25 square meter under roof-----	150,000	720,160
Academy of Sciences, area 1,196 square meters, on Cuba street:		
Value of lots at \$50 square meter-----	59,800	
Value of building, 400 meters area of construction at \$80 a meter (newly built, two stories, in need of repairs)-----	32,000	91,800
House on Obrapia, area 210 meters:		
Value of lots at \$60 a square meter-----	12,600	
Value of building-----	4,000	16,600
House on Cardenas street, area 92 meters:		
Value of lots at \$30 a square meter-----	2,760	
Value of building-----	1,000	3,760
Total-----		1,165,926

Water front (property of the State to 20 meters from high-water line)
if survey should prove the zone wider than 20 meters from high-
water line, the difference reckoned at the rate the municipality has
paid the latest expropriations made for public highways-----

HABANA, April 20, 1907.

L. V. DE ABAD.



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