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AIR MAIL

Habana, Cuba,
May 29, 1940.

Personal and
Confidential

Dear Sumner:

As you know, we learned through Lancaster yesterday morning that the American banks were considering making a protest to the Department with respect to the moratorium legislation the Constitutional Assembly is considering, and were also considering making a protest directly to the President of the Constitutional Assembly. I thereupon endeavored to get in touch with you, and found it possible late in the morning to have a talk with Duggan on the telephone. I told him that I had the distinct impression that a majority of the Assembly had been got to agree to the latest Casanova proposals and that these were very drastic and in our opinion undesirable. I suggested that if the banks did approach the Department, it would be helpful for us to go a little further than we did in 1939 and that you might wish to consider calling in Martínez Fraga and making some oral observations to him, and authorize me to make them here. Bonsal called me on the telephone after lunch and read me a telegram which the Department was sending me which gave the observations which you were going to make to Martínez Fraga, and which authorized me to convey these same observations to President Laredo Brí and others here.

While I think we all feel that we must not go too far on this moratorium question, the situation here was such that it seemed to me that it would be desirable for us to make a last minute effort to do something to get more reasonable provisions and there was a certain urgency as I had every reason to believe that Casanova and Cortina had lined up a very strong majority in favor of their views. There was also reliable information that various members of the Opposition parties had been released from any obligations to vote as a unit on this matter, and were told that they could vote as they pleased. Cortina and Casanova were members of a Committee which during the day was putting the final touches on the proposition which they were all ready to push through. ~~Cortina~~ had been making it clear that the project he was favoring was the price for getting Articles 25 and 26 in the form which we think acceptable.

Casanova

As time

The Honorable Sumner Welles,
Undersecretary of State,
Department of State,
Washington, D. C.

As time was of the essence, I arranged immediately after my conversation with Duggan to go out to the President's Finca where I saw him at 5 o'clock. I arranged that while I was making this trip Beaulac was to get in touch with Montouliou, who is acting as Secretary of State while Campa is in Santo Domingo, and also with Ramos and Casanova. The President was very much upset over the whole matter and repeated that in his opinion all moratorium legislation was immoral. He was glad to have our views which entirely coincided with his. We knew his attitude on the Moratorium as he had made it clear in his veto messages. He was upset principally because he said it was obvious that, certain members of the Constitutional Assembly, who had failed to get this moratorium legislation through over his veto, were now endeavoring to use the Constitutional Assembly to carry through their personal ends - knowing that there was no way of his exercising a veto over the acts of the Assembly. The President was unusually frank and direct. He said that he too had the impression that there was an agreement of a majority which comprised various parties in the coalition and the opposition to vote that evening moratorium legislation which he considered immoral. These people, he said, were really destroying Cuban credit and perhaps themselves and did not seem to realize the utter dependence of Cuba in the difficult years to come upon sound credit and conditions which made it possible for American capital to operate here. He said that it was so clearly obvious that the only place from which capital could come for years to come was the United States. I made it clear to the President that what you were saying to Martínez Fraga, and the observations which I was making to him, were not representations but friendly observations based on our deep interest in Cuban credit and the establishment of a normal situation. The President said that he quite understood and he was glad that we had taken this step. He said that the most effective thing he could do was to get in touch with Sterling, who is now the head of the Assembly, and endeavor to prevent discussion that evening so that there would be more time for sober consideration. He expressed a good deal of pessimism as to whether he would be able to stop consideration that evening as there was evident this determination of a majority of the Assembly to vote that evening.

I returned to the Chancery and found that Mountouliou had just been with Beaulac and had promised to do everything he could immediately. Ramos appeared just then, and I was glad to be able to see him myself. I went over the whole ground with him again at length and told him to endeavor to get to Batista without delay which he said he would do. I made it clear to Ramos that as things were developing in the rest of the world, Cuba's dependence on us grew greater and greater and that he would have hard sledding if he permitted Cuba's credit to be destroyed. I had gone over all this ground with Batista before, and passed this word on to him through Ramos as I knew it would be impossible to arrange to see him yesterday afternoon on such short notice without everybody

knowing

knowing that I had seen him and, under the circumstances, this would have had no good effect. Beaulac had not succeeded in getting in direct touch with Casanova, who indicated that he was in meetings, and that he would not be able to come to the Chancery until today. We did, however, get to him our observations. Casanova remarked that "it was too late" and they were going to vote that evening and that if he had had the information five or six days ago he would have been able to get a better solution. This, of course, is entirely absurd, as I had talked with him at length and with much precision in this respect.

The Assembly met at about 10 last evening and the report of the Committee was read. On this Committee, Casanova and Cortina were the principal members, and both of them, of course, are very much personally interested. Some of the paragraphs of the report which the Committee presented and the Committee's moratorium project were undoubtedly phrased as they were to cover particularly the cases in which these and other individuals were personally interested. It must be said that the report which they made does meet some of the observations which we made. Interest rates are increased somewhat, amortization periods for smaller amounts reduced, and there is some limitation on the cases which fall within the extension of the Moratorium for the period 1934-1937. These changes, however, I believe were made not as the result of our action yesterday afternoon, but had all been made earlier in the day. There was a debate which lasted until after 3 o'clock this morning at the end of which the project of the Committee was approved as a whole by an overwhelmingly large vote - something like 49 to 7, I believe.

This means at the session this evening they will consider the project item by item and there is still a good deal of possibility that we may get through this discussion ~~some~~ of the items one by one some small improvement therein. Some small improvement is, I think, the most we can expect. We shall do what we properly can during the day. The chances are that the project as a whole will be finally approved in a form not much better than that in which it was passed in a preliminary way last evening. These individuals who have this personal interest at stake are determined to get this matter settled now. The chances are that once they have this settled, Articles 25 and 26 in a respectable form and acceptable form to us will be passed. Although they have only until June 8th to finish the Constitution, I am inclined to believe that they will finish it, because once this question of the Moratorium is out of the way, they will approve whole sections of the Constitution "en bloc". You know how they can do this here.

I am naturally unhappy that we may not be able to get better moratorium legislation. I need not tell you that I have done my best. You will realize that we are struggling
against

against the personal interests of certain individuals who believe that they must settle this now to their advantage if they are to get it settled. I must say, however, that even though we may get an unacceptable transitory provision in the Constitution on the Moratorium, it will be a big step forward if we get a Constitution which protects private property, restricts retroactivity and provides a safe basis for civil contracts. The Constitution is bound not to be too good as a whole. It is going to be more of a Code of Laws than a Constitution. It is going to offer serious inconveniences to future legislative action in many respects. I believe, however, that you will agree with me that if we can get the recognition that private property cannot be confiscated without immediate and adequate compensation, and a proper basis for civil contracts, and the limitation of retroactivity, it will be a great step forward, for at least in these fundamental respects, the straight jacket on further legislative Assemblies will be desirable.

I realize that these things, important as they seem here, and important as they are, in our inter-American problem, seem rather small contrasted with the catastrophic events in the world situation. Without losing my perspective in any sense, I am endeavoring to do what I can to take care of our problems here and I want to tell you that I appreciate particularly the help which you gave me yesterday.

With all good wishes,

Cordially yours,

GEORGE S. MESSERSMITH

GSM:fm.